

**BUDGET AND POLICY PLANNING IN DEVOLVED KENYA: A CASE STUDY OF
CITIZEN PARTICIPATION IN NAIROBI COUNTY**

BY

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ABSTRACT

The new *Constitution of Kenya* has devolved a significant portion of public finances, powers and responsibilities to a new sub national level of government. Kenya now has 47 Counties, each with a County assembly, an elected Governor and an administration in charge of managing public resources and providing social services. Kenyan legal frameworks such as the *Public Finance Management (PFM) Act* and the *County Government Act (CGA)* as well as specific County government participation legislation obligate County governments to facilitate and promote citizen participation in the development of County plans, budgets and policies. This thesis shall show that despite legislative efforts furthering devolution and citizen participation, the law is not always implemented and does not always function well in some instances. There appears to be little improvement in overcoming challenges faced in citizen participation of previous decentralised funds through the Local Authority Service Delivery Action Plan (LASDAP). Elite capture, resource and capacity constraints, poor bureaucratic coordination, communication as well as a limited understanding by both local officials and citizens regarding the new roles and mechanisms for participation have not resulted in simplistic ‘magic bullet’ reforms. This is further compounded by a lack of information, feedback on citizen inputs and poor implementation of public participation meetings and service delivery projects. A serious limitation in terms of access, meaningfulness and inclusiveness has resulted in citizens not making use of or taking up participation opportunities. Citizens are thus opting for alternative and more effective strategies of engaging and influencing local government processes. The thesis will also show that although legislation acknowledges and provides a role for civil society to partner with government in jointly facilitating effective citizen participation in public policy; the partnership between local government and civil society does not automatically translate into effective partnerships because of poor civic capacity, unequal power dynamics, and unclear and insufficient guidelines with regards to representation.

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Table of Contents

ABSTRACT	i
ACKNOWLEDGEMENTS.....	ii
Table of Figures	vii
List of Tables	vii
List of Acronyms.....	viii
Glossary of Terms.....	xi
Chapter 1: Introduction	1
1.1 Decentralisation and citizen participation: prospects and problems	1
1.2 Decentralisation and citizen participation in the Kenyan context.....	4
1.3 Justification for the research.....	8
1.4 Research objectives and questions.....	9
1.5 Context of the study	10
1.6 Decentralisation and citizen participation theoretical concepts	13
1.7 Overview of methodology	17
1.8 Thesis overview	19
Chapter 2: The relationship between decentralised governance and citizen participation: A conceptual framework	21
2.1 Introduction.....	21
2.2 The concept of decentralised governance	21
2.2.1 Deconcentration	23
2.2.2 Delegation	24
2.2.3 Devolution	25
2.2.4 Democratic decentralisation theory: Bridging the gap between devolution and citizen participation	29
2.3 Decentralisation in developing countries.....	32
2.4 Linking decentralisation to participation: Theories of participatory governance	39
2.4.1 Critical analysis of participation in public policy and decision making	46
2.4.2 The politics of power in formal participation spaces	49

2.4.3 <i>Collective mobilization and reclaiming the power of participation</i>	51
2.5 Conclusion	54
Chapter 3: The road to decentralised and participatory governance: The Kenyan experience .	55
3.1 Introduction.....	55
3.2 A historical overview of governance reforms in post-colonial Kenya: From 1963 to 2010....	55
3.2.1 <i>The first wave of governance reforms</i>	55
3.2.2 <i>The second wave of governance reforms</i>	57
3.2.3 <i>A new era of decentralised governance and citizen participation: the third wave of decentralisation reforms</i>	63
3.3 A critical assessment of Kenya’s motivation for adopting decentralisation and citizen participation reforms.....	70
3.3.1 <i>The challenge of reforming institutions, space/context and isomorphic mimicry</i>	74
3.4 Conclusion	77
Chapter 4: Research Methodology	79
4.1 Introduction.....	79
4.2 Research design.....	79
4.2.1 <i>Case study selection methodology</i>	79
4.2.2 <i>Selection of case study and criterion for selection</i>	80
4.2.2.1 <i>County Budget Economic Forums (CBEFs)</i>	82
4.2.2.2 <i>County public participation law</i>	83
4.2.2.3 <i>Population size, urbanisation and economic activity</i>	83
4.2.2.4 <i>Poverty and inequality</i>	84
4.2.2.5 <i>Literacy levels</i>	85
4.2.2.6 <i>Ethnicity</i>	85
4.2.2.7 <i>Organised groups</i>	86
4.2.2.8 <i>Political affiliation</i>	86
4.3 Embedded single case study: Nairobi County’s Sub Counties	88
4.4 Sampling and data collection techniques.....	89
4.4.1 <i>Interviews</i>	92
4.4.2 <i>Interviews with county officials responsible for facilitating participation</i>	92
4.4.3 <i>Interviews with non-state officials responsible for facilitating participation</i>	94
4.4.4 <i>Interviews with non-state actors who engage in participation forums</i>	95
4.4.5 <i>Online questionnaires</i>	99
4.4.6 <i>Observation</i>	101

4.4.7 Document analysis	105
4.5 Data analysis techniques.....	105
4.6 Research limitations.....	107
4.7 Research ethics.....	108
Chapter 5: Reviewing the mechanisms and processes for implementing public participation in Nairobi County.....	110
5.1 Introduction.....	110
5.2 The general effect of devolution/decentralisation on implementing public participation practices.....	110
5.3 Implementing public participation: the roles and responsibilities of county officials and structures.....	118
5.3.1 The power and politics of implementation	123
5.4 Implementing public participation: financial and technical resources	129
5.4.1 Capacity constraints	133
5.4.2 Access to information.....	136
5.5 Implementing public participation: CSOs and County Budget Economic Forums (CBEFs)	141
5.6 Conclusion	148
Chapter 6: Reviewing the efficacy and quality of participatory methods used in Nairobi County	150
6.1 Introduction.....	150
6.2. Implementing public participation: Nairobi County’s citizen mobilization and inclusive strategies.....	150
6.2.1 Poor attendance and low citizen perception: a challenge for Nairobi County’s mobilization strategies.....	154
6.2.2 The use of representatives: a strategy for overcoming poor attendance	165
6.2.3 Trust: the foundation of mobilizing for meaningful and inclusive participation	169
6.3 The challenge of class inequalities	172
6.4 The inclusion of women and vulnerable groups	176
6.5 Conclusion	179

Chapter 7: Taking back the power: Citizen attitudes and experiences of formal participation spaces in devolved Nairobi County.....	182
7.1 Reclaiming the power of citizen participation through informal spaces.....	182
<i>7.1.1 Reasons for the formation of Residents associations in Nairobi.....</i>	<i>182</i>
<i>7.1.2 Residents associations, the meaning of participation and trust</i>	<i>185</i>
<i>7.1.3 How Residents Associations reclaim and exercise the power of participation.....</i>	<i>189</i>
<i>7.1.4 Alternative methods of direct engagement and collaboration</i>	<i>192</i>
<i>7.1.5 Alternative methods of confrontation and co-operation.....</i>	<i>195</i>
7.2 The struggle for power between Residents Associations and the Nairobi County Government	199
7.3 Conclusion	202
Chapter 8: Conclusion.....	204
8.1 Study overview	204
8.2 Citizen participation and decentralisation in Kenya: Theoretical conclusions	205
<i>8.2.1 On the benefits of democratic decentralisation</i>	<i>205</i>
<i>8.2.2 The politics of power and participation</i>	<i>210</i>
<i>8.2.3 The effect of legislation on empowerment and changing behaviour</i>	<i>213</i>
<i>8.2.4 On representation, inclusiveness and meaningful participation.....</i>	<i>216</i>
8.3 Some directions for future research	219
References.....	221
Annexure A: Table of Sub County Demographics of Nairobi City County	241
Annexure B: List of interviews	247
Annexure B1: List of Pseudonyms allocated to sub county and ward administrator interviewees	249
Annexure B2: List of pilot interviews conducted between 3 -28 April 2016.....	250
Annexure C: Questionnaire on Citizen Forums for Sub County and Ward administrators	252
Annexure D: A list of documents analysed for purposes of answering study's questions	258
Annexure E: Participant Consent Form	262
Annexure E1: Interview Schedule	265
Annexure F: A summary of vision, mission and goals of interviewed Residents Associations..	275

Table of Figures

Figure 1: Operationalization of key requirements for a strong design of democratic decentralisation policies, programs and mechanisms.	38
Figure 2: A summary of key features of deliberative and inclusionary processes	42
Figure 3: 47 Counties of the Republic of Kenya	64
Figure 4: Kenya’s Constitution and legal framework providing a strong foundation for public participation	69
Figure 5: Nairobi County	89
Figure 6: Public Participation Year Planner	116
Figure 7: Dandora Transformation League “Principles of Participation” pamphlet.....	187

List of Tables

Table 1: Overview of interviewees and total no of interviews conducted	92
Table 2: Breakdown of interviews with Nairobi County officials	94
Table 3: Breakdown of interviews with non-state actors facilitating participation.....	95
Table 4: List of CSOs interviewed	96
Table 5: List of Residents Associations interviewed	97
Table 6: List of mobilization and communication techniques.....	151
Table 7: Sub County public participation committees, roles and structures	166

List of Acronyms

AFD	Agence Francaise de Development <i>French Development Agency</i>
CBEF	County Budget Economic Forum
CBO	Community Based Organization
CBRoP	County Budget Review Outlook Paper
CFSP	County Fiscal Strategy Paper
CDC	Constituency Development Committee
CDF	Constituency Development Forum
CIDA	Canadian International Development Agency
CIDP	County Integrated Development Plan
CORD	Coalition for Reforms and Democracy
CSO	Civil Society Organization
CoK	<i>Constitution of Kenya</i>
CGA	<i>County Government Act</i>
CRA	Commission of Revenue Authority
DIP	Deliberative Inclusive Processes (DIPs)
DTL	Dandora Transformation League
EDD	Empowered Deliberative Democracy
FIDA	Federation of Women Lawyers
GIZ	Gesellschaft für Internationale Zusammenarbeit <i>Germany Society for International Cooperation</i>
IBP	International Budget Partnership
IDS	Institute of Development Studies

IEA	Institute for Economic Affairs
IEBC	Independent Electoral Board Commission
IFIs	International Financial Institutions
ILA	Institute for Legislative Affairs
IMF	International Monetary Fund
LA	Local Authority
LASDAP	Local Authority Service Delivery Action Plan
LATF	Local Authority Transfer Fund
KANU	The Kenya African National Union
KARA	Kenya Alliance of Residents Association
KHBS	Kenya Household Budget Survey
KHRC	Kenya Human Rights Commission
KLGRP	Kenya Local Government Reform Programme
KLDA	Karen Langata District Association
KNBS	Kenya National Bureau of Statistics
KNALS	Kenya National Adult Literacy Survey
KNHS	Kenya National Household Survey
KPF	Kilimani Project Foundation
MCA	Members of County Assembly
MoLG	Ministry of Local Government
MP	Member of Parliament
MSSD	Most Similar Systems Design
NTA	National Tax Payers Association
NIUSP	Nairobi Integrated Urban Strategic Plan
NCC	Nairobi City County

NEMA	Nairobi Environmental Management Agency
PEFA	Public Expenditure and Financial Accountability
PFM	<i>Public Finance Management</i>
PRSP	Poverty Reduction Strategy Programme
SPAN	Social and Public Accountability Network
SUPKEM	Supreme Council of Kenyan Muslims
TISA	The Institute of Social Accountability
TNA	The National Alliance Party
ODM	Orange Democratic Movement Party of Kenya
ORCE	Old Race Course Estates Residents Group
UDF	United Democratic Forum
USAID	United States Agency for International Development
URP	United Republican Party
UNDP	United Nations Development Programme
WDM-K	Wiper Democratic Party of Kenya

Glossary of Terms

Word	Meaning
Jehushishe	KiSwahili for to reclaim
City Hall	Headquarters of the Nairobi County Executive Government
Madrasa	Islamic religious school
KiSwahili	Indigenous language of Kenya
Baraza	Council/public meeting
PEFA	<i>PEFA</i> framework has been hugely successful in harmonising approaches to public financial management (PFM) systems in developing countries and remains the most comprehensive indicator of PFM to date.
Matatu	Public transportation in the form of a shared taxi
Majimbo	KiSwahili term for provincial regions
Wanainji	KiSwahili for ordinary person
Mamoyegaba	KiSwahili for government responsibility

Chapter 1: Introduction

1.1 Decentralisation and citizen participation: prospects and problems

Citizen participation, which is the participation of ordinary citizens in the public policy process, has received increasing attention since the late 1990's (Andersson and Van Laerhoven, 2007). Scholars, development partners, international financial institutions and donors have been advocating for expanded and structured opportunities for citizens to make input in public policy and governance processes (Blair, 2000; Heller, 2001; Shatkin, 2000). Examples of citizen participation include participatory budgeting in Port Alegre, Brazil; village development councils and urban forums in Kerala, India as well as public planning meetings in Bolivia, Philippines and the Ukraine (Blair, 2000; Shatkin, 2000; Heller, 2001).

Development theory has argued for the use of citizen participation for many years (Grant, 2000; Rondenelli, 1981). Prior to the 1990s, development theory, policy and practice stressed the importance and benefits of community/beneficiary participation, the value of incorporating local knowledge into the planning, implementation and monitoring of development projects (Rondenelli, 1981; Goulet, 1989; Grant, 2000; Hickey and Mohan, 2004). Development agents and academics, since the 1990s, have continuously impressed that citizen participation in public policy processes make government institutions more accountable, legitimate and responsive (Gaventa, 2004; Speer, 2012). Local participation in governance has been on the development and good governance agenda not only for its benefits but as an effective response to failures in the following areas: public service provision; social cohesion and political conflict; shortcomings in government accountability systems and inefficiencies of government structures and institutions (Ackerman, 2004; Goetz and Gaventa, 2001). Participatory local governance reforms have therefore been considered as integral to resolving these issues and as such have become popular strategies for developing countries.

Decentralisation literature argues that citizen participation in governance matters is good for effective, equitable sound policies as well as local government responsiveness (Speer, 2012). Decentralisation is seen as making government more efficient and effective in delivering its services with a key focus on ensuring that public resources are distributed towards local needs and preferences (Pritchett and Woolcock, 2004). The literature on decentralisation in developing countries is often discussed with citizen participation because of the close link

between the two on the issues of delegation of power to lower levels of the state and to the people.

However, there are political challenges to devolving decision-making power which include a lack of support from central governments and local bureaucrats to devolve power as well as powerful interests of the ruling elite who want to maintain the status quo. Ideally, participation opportunities need to be supported by local institutions with sufficient capabilities and resources in order to enable the participation of citizens in public policy and service delivery (Andrews et al., 2010). Literature on decentralisation and participatory local governance show that the following factors affect the functioning of local participatory institutions: resource scarcity; poor and inadequate systems for allocating administrative and financial services; poor relationship or a lack of trust between tiers of government and between citizens and the government. These factors may inhibit decentralised participatory local government (Brinkerhoff et al., 2007; Brinkerhoff and Azfar, 2006; Francis and James, 2003; Heller, 2001; Wampler, 2008; 2014).

Unlike decentralisation literature, citizen participation and participatory governance literature have studied a variety of participation methods and structures in government budgeting at the local level and have found strengths and weaknesses (Ackerman, 2004; Goetz and Gaventa, 2001). Public meetings are amongst the most popular methods used by local governments to deliberate on budget and policy issues. Many local governments still rely almost exclusively on public hearings for local budgeting and planning processes but “attendance is often low and may not represent the community as a whole” (Ebdon and Franklin, 2004: 35). In addition, participants often have insufficient access to information, documentation as well as insufficient capacity to engage with budget and policy documents for effective input (Besley et al., 2005; Ebdon and Franklin, 2004; Grant, 2002).

Studies have also found very little influence of citizen input on final budget decisions and very little evidence of feedback resulting in a lack of sustainable and consistent use of participation opportunities and spaces (Bland, 2000; Francis and James, 2003; Shatkin, 2000). Formal participation spaces can also be exploited or dominated to rubber stamp and/or legitimize serving a wide variety of elite agendas (Devas and Grant, 2003; Francis and James, 2003; Porter and Onyoch-Olaa, 2000). A couple of factors that include: local history; powerful interests; political interference; intra community relationships; community and state relations affect

citizens experiences and perceptions of power, politics and decision-making processes (Devas and Grant, 2003; Gugit and Shah, 1981; Heller, 2001; Shatkin, 2000). Social and cultural politics of ethnic identity and gender can also influence participatory outcomes and how various citizens are engaged or marginalized depending on their identity and/or socio-cultural norms (Devas and Grant, 2003; Francis and James, 2003; Gugit and Shah, 1998; Porter and Onyoch-Olaa, 2000). These studies shed light on the power of context to influence outcomes of decentralisation and citizen participation reforms.

External agents such as donors and international financial institutions have been pushing decentralisation and citizen participation reforms in developing countries in exchange for funding, good governance scores and investment opportunities (Andrews et al., 2010; De Gramont, 2014). However, contextual issues particularly at the grassroots level tend to be given little attention in the designing of reforms. Standard Public Finance Management (PFM) reforms by donors and financial institutions tend to focus more on strengthening the capacities of central institutions such as the budget department as well as the creation of legal frameworks (Andrews, 2010; Andrews et al., 2017; De Gramont, 2014).

The last two decades has seen increased lending practices by lending institutions such as the IMF and World Bank to African and third world states for public sector and public finance reform initiatives (Andrews, 2010; De Gramont, 2014; Evans, 2004; Speer, 2012). Public Finance Management reforms in Africa include decentralisation and opportunities of citizen participation in resource allocation, monitoring and evaluation of service delivery. However, Andrews' (2010) study of public finance reforms in Africa revealed that despite the focus on improving budget transparency and participation, African governments are performing poorly when it comes to budget implementation. Failure to implement budget reform processes even after extensive citizen participation during the budget formulation process risks the sustainability and legitimacy of the process.

Studies also reveal that governance reforms in Africa generally suffer from an implementation deficit. This is because while legislation usually improves implementation is hardly achieved (Andrews, 2010; Ribot, 2007). When it comes to governance reforms in developing countries, practice lags behind the creation of laws and processes. The reasons for this include reforms being often instigated by external actors and not internal actors particularly state actors at the local level who are often charged with the responsibility to implement reform agendas they

neither understand, accept nor have the capacity to implement (Andrews et al., 2017; De Gramont, 2014; Evans, 2004; Meyer et al., 1997). If decentralisation and citizen participation reform is pushed by external actors and is standardised and not contextualised this will result in limited benefits due to institutions and laws that merely mimic global agendas, as opposed to locally designed reforms that respond to specific and unique contextual challenges.

1.2 Decentralisation and citizen participation in the Kenyan context

In 2010, Kenyans adopted a new Constitution designed to decentralise authority and promote citizen participation at the local government level by replacing 175 local councils with 47 County level governments. Each County has the authority, administration and resources to make policy decision and deliver key social services. Chapter 11 of the *Constitution of Kenya* (CoK) spells out the objectives of devolution in article 174:

(i) to promote democratic and accountable exercise of power (ii) to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the state and in making decisions affecting them (iii) to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya.

To an extent Kenya's devolution is a response to criticisms raised concerning resource allocation, which in turn have contributed to political strife (Ndiku, 2014; Ngoju, 2013). A devolved system of governance promises to allow for more equitable distribution of public resources as well as development outcomes. Kenya's recent adoption of devolution and citizen participation legislation is largely supported by the World Bank which is funding Kenya's Public Finance Management reforms, economic and infrastructure projects as part of a joint poverty reduction strategy between the World Bank and the Government of Kenya (IMF, 2014; Republic of Kenya, 2012).

Kenya's new Constitution and legal framework provides a strong and progressive foundation for public consultation and decision making in public policy. The Kenyan legal framework under the new *Constitution of Kenya* (CoK Articles 10, 174, 201) supported by *Public Finance Management* (PFM) *Act*, (2012) and the *County Government Act* (2012) mandates that the public be engaged in budget and policy formulation, planning and service delivery priority setting.

The *County Government Act* (CGA) of 2012 (Section 115) obligates County governments “to establish specific structures, mechanisms and guidelines for public participation in County budgets and plans.” County governments are guided by the following public participation provisions outlined in other legislative frameworks:

- County governments should prepare *The County Budget Circular* prescribing the manner in which the public will participate. Participation could take various forms including but not limited to direct participation, written comments and through representatives (*PFM Act* Section 128)
- The structures and guidelines should ensure that participation is open to all without discrimination and must safeguard against domination of the consultations by one group whether politicians, elites or Civil Society Organisations (*PFM Act* Section 207)
- Promote access to minorities and marginalised groups and communities (CoK, Article 35; *PFM Act* Section 254)
- Timely access to information, data and documents and other information relevant or related to policy formulation and implementation (CGA, Sections 87)
- Establish mechanisms to facilitate public communications and access to information with the widest public outreach using media which may include: television stations, information communication technology centres, websites, community radio stations, public meetings and traditional media (CGA, Sections 94 and 95)
- County governments should form a County Budget and Economic Forum (CBEF) which consists of both state and non-state actors to facilitate meaningful consultation over the budget process by County inhabitants (*PFM Act*, Section 137)
- County governments should promote and recognise the role of non-state actor’s participation in government facilitation and oversight (CGA, Section 87)
- Submit an annual reflection on citizen participation in the affairs of the County government to the County assembly (CGA, Sections 30 and 92).

Among the citizen participation and public finance reforms is the establishment of a joint participation body called the County Budget Economic Forum (CBEF). Section 137 of the *PFM Act* states that “County governments should form a County Budget and Economic Forum (CBEF) which consists of both state and non-state actors to facilitate meaningful consultation over the budget process by County inhabitants.” Section 137 of the *PFM Act* states that CBEFs are to serve as the primary means of consultation on local budgets and plans and also broader matters of economy and finance. The CBEFs consist of members of the Executive and an equal

number of nominated and appointed representatives of business, labour, religious groups, women, youth, persons with disabilities who are to jointly facilitate public participation in County budgets and plans. The *PFM* and *County Government Acts* both acknowledge and provide a role to civil society to partner with government in jointly facilitating effective citizen participation in public policy.

In 2015 the Nairobi County further developed the above listed guidelines by adopting a County *Public Participation Act* – The Nairobi City County (NCC) *Public Participation Act* No. 11 of 2015 states:

"public participation" means the involvement of individuals and groups that are positively or negatively affected by, or that are interested in, a proposed project, program, plan, legislation or policy that is subject to a decision-making process in an open, accountable and inclusive process through which individual citizens, community and interest groups, and other stakeholders can exchange views and make or influence the decisions that affect their lives.

The purpose of the Nairobi City County (NCC) *Public Participation Act* is

to provide for a legal framework for participation in the County to enable citizens to hold the County government accountable and to demand for feedback on progress of service delivery and contribute in decision making process that includes planning for service provision, budgeting, implementation and policy-making to mobilize and facilitate effective involvement of communities, organisations and citizens potentially affected by or interested in a decision.

Parts II and III of The NCC *Public Participation Act*¹ outlines the roles and responsibilities of County government structures pertaining to implementation of citizen participation in County affairs as follows:

- The County Government shall promote and facilitate public participation in the County.
- The ultimate responsibility for public participation in the County Executive and County Assembly shall be on the Governor and Speaker of the County Assembly respectively.
- Sub County, ward and village administrators shall promote, facilitate, and coordinate public participation activities in their respective administrative units.

¹ A copy of the NCC Public Participation Act no. 11 of 2015 is accessible online at http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/NairobiCityCountyPublicParticipationAct_2015.pdf

- The office or officer responsible for public participation shall- facilitate capacity building and provide support to other County Government departments on public participation processes; develop and execute an appropriate civic education programme.
- The County Government shall encourage and create conditions for the local community to participate in the affairs of the County, including-the preparation of its annual development plans, budgets and their implementation and monitoring thereof; and strategic decisions relating to the provision of County services and functions.
- The County Government shall contribute to building the capacity of the local community to enable it to participate in the affairs of the County; and staff and administrators of decentralised units to foster community participation appropriate for the purpose.
- County Government must report-back to the local community in a timely manner
- The County Government shall, when a forum is convened, ensure that the forum is fully publicized to enable the attendance and participation of a wide section of the population, including gender and marginalized groups and communities.
- The County Government shall facilitate meaningful participation of the citizens in the forum including-ensuring accessibility to the forums; and the use of language that is understandable by the citizens and including person with disabilities.
- The public shall have timely access to appropriate information which shall be publicized or provided by the County to enable their participation in a meaningful manner.

As indicated by the above legislative frameworks, meaningful citizen participation in governance is a key ingredient for public reforms instituted by the *Constitution of Kenya* (CoK) in 2010. Article 1 of CoK empowers the people of Kenya to engage in both direct participation through County government officials as well as indirectly through elected representatives. Citizen participation is one of the national values and principles of public services captured in Articles 10 and 232 of the Constitution. The CoK supported by other legislative frameworks such as the *County Government Act* (2012) and the *Public Finance Management Act* (2012) provide various platforms for citizen participation in County governments budgets and plans. Kenya's devolution and participation legislative framework does not provide a process of democratic deliberation and decision-making in the budget making process which gives ordinary people the power to vote or to directly decide how to allocate part of a municipal or

public budget. Citizen participation under Kenyan legislation does not empower citizens to have a direct impact on the budget. It empowers citizens to be consulted during the formulation of County budgets and plans. This is a critical aspect which distinguishes Kenya from other developing countries in Latin America with participatory budgeting legislation which supports direct influence of local government budgets (Shah, 2008).

1.3 Justification for the research

This study will review provisions in the Constitution and in existing legislation on public participation to identify the frameworks, processes and platforms put in place by County governments with the objective of facilitating public participation in County budgets, policies and plans. The study will investigate the new mechanisms and participatory methods established whilst assessing obstacles and enablers to its implementation. The study will also seek to document both County government and citizens attitudes, experiences and perceptions of making use of the new citizen participation opportunities and mechanisms.

Kenya presents a relevant and interesting case to be examined mainly on three accounts. Firstly, for the first time since independence, a new Constitution has been introduced ushering in further levels of devolution as well as further participation platforms for citizens to influence local budgeting and planning processes. The reforms taken since late 1990s and early 2000 spearheading other participatory governance mechanisms such as Local Authority Transfer Funds (LATFs) and Constituency Development Fund (CDF) helped to provide the Local Authorities (LAs) with some additional resources but did not increase their responsibilities or decision-making autonomy. Thus, the increase of decision making autonomy and resources at local level is a relatively new concept in the Kenyan context. The World Bank has referred to Kenya's devolution "as one of the most ambitious underway in the world..." (Centre for Devolution, 2015; IMF, 2014).

Secondly, there is very little known regarding the extent to which progress has been made by Kenya's recently established County governments in instituting participatory governance reforms in the roll out of devolution. The study will help fill the knowledge gap relating to Kenya's new era of public participation under the new Constitution. Reviewing Kenya's current experiences with citizen participation against past experiences on public participation in local service delivery can highlight the extent to which decentralisation and citizen reforms have been able to overcome previous contextual challenges. This in turn can yield valuable insights

into the extent to which contextual factors affect the design, implementation and responsiveness by both government and citizens to participation mechanisms.

Inclusive participation is at the very foundation of democratic, fair and equal consultation processes designed to provide opportunities for all citizens to influence local policies. Reforming local institutions without paying attention to inclusion and consultation processes will only reinforce the status quo (Cornwall and Gaventa, 2000). Previous experiences of participation in local government in Kenya also highlighted limited inclusiveness, representation and capacity of citizens to access and engage in policy documents and government resources (Center for Devolution, 2015; Devas and Grant, 2003; Muriu, 2014). The new mechanisms adopted by County governments in today's Kenya assume that County governments recognise these limitations to inclusive participation in order to put in place appropriate mechanisms. The study will investigate to what extent Kenya's newly devolved local institutions are paying attention to issues such as inclusion, representation and meaningful participation or whether they are merely reinforcing the status quo. It will also examine the extent to which Kenya's impressive legislation has translated into practice, permeating institutional culture and behaviour; and if capacity and resource costs are impacting on practice or implementation of citizen participation mechanisms, and if so, how.

Such contextual insights provide a third justification for this study which is that a number of studies on budget participation and participatory governance have produced isolated case studies focused on European, Latin America and Asian countries. There is a need for more research on participatory governance in Africa. Furthermore, there is a limited amount of empirical evidence. Current literature on participatory governance is mostly based on theory, normative perspectives, subjective opinions and assumptions (Speer, 2012). The goal of this study is to provide much needed empirical evidence which looks at citizen participation in public policy planning in a developing African context.

1.4 Research objectives and questions

Given the recent introduction of participatory governance reforms in Kenya there is very little known regarding the operationalization and roll out of these reforms at the local level and their experiences in potentially bringing about meaningful and inclusive citizen participation in public policy planning over state resources. The objective of the study will therefore be to investigate the design and implementation of local participatory governance mechanisms and

structures. The overarching goal is to test two assumptions. The first being that local citizens (in particular poor and vulnerable groups) are meaningfully participating in local public policy processes. The second assumption is that the adoption of decentralisation supported by legislative opportunities obligating citizen participation in governance processes can lead to effective, meaningful and inclusive participatory spaces where local citizens can influence public policy decisions through participation.

Using Nairobi County as a case study, this study will attempt to meet its objectives by investigating the experiences of implementing citizen participation reforms by newly devolved local institutions as well as experiences and perception of citizens and civil society engaging in the newly established local participatory governance forums. It will assess whether and how contextual factors such as (historical, political, socio-cultural and institutional) are contributing to the success/unsuccessful implementation of meaningful and inclusive participatory governance. This study looks at the implementation of citizen participation under Kenya's newly devolved government however the study will be confined to a single case study designed to specifically answer the following research questions:

- a) How is Kenya's most urban devolved County government (Nairobi County Government) organizing and implementing citizen participation?
- b) What challenges and/or successes are faced by the Nairobi County government in implementing citizen participation regulations under newly devolved systems and institutions?
- c) How do local government officials and citizens experience and perceive the newly established methods/techniques of engagement in post devolution Kenya?

1.5 Context of the study

Kenya's adoption of participatory governance reforms is aimed to improve the well-being of their people and empower its citizens (Centre of Devolution Studies, 2015; Republic of Kenya, 2012). Reforms have availed more information regarding budget processes to the public, allowing citizens in particular civil society to engage in significant discussion over sector objectives, strategies and programmes against sector allocations and expenditure at both national and local government level (*PFM Act*, 2012). Opportunities for participation by citizens and civil society in the budget process have been expanded in Kenya's recently adopted Constitution and *PFM Act* in 2010 and 2012 respectively. Prior to devolution, Kenyan

respondents were asked in a 2010 *Afrobarometer* survey how well or badly they thought their local councils were:

...guaranteeing that local government revenues are used for public services and not private gain; providing effective ways to handle complaints about local councillors or officials; consulting other leaders (civic, community) before making decisions; allowing citizens to participate in council's decision; providing citizens with information about the council's budget and making the council's program of work known – (*Afrobarometer*, 2010:3).

The results showed that respondents thought council was faring badly in all these procedures. The worst ratings were for the following two indicators: not allowing citizens to participate in council's decisions and in making council's program of work known to ordinary people (*Afrobarometer*, 2010). When asked about the abilities of ordinary citizens to improve local government performance, the response was overwhelmingly pessimistic (*Afrobarometer*, 2010).

Decades of one party rule, centralisation and elite capture of public policies have created challenges for previous participatory local governance reforms in Kenya (Rocaboy et al., 2013). Since independence from colonial rule, Kenya's ruling elite resisted and fought against giving local communities far greater control over resources and decisions about public policy and service delivery (Dowden, 2010; Rocaboy et al., 2013). Until the adoption of the new Constitution in 2010, the government of Kenya amended the Local Government Act in the late 1990's to give a limited amount of resources and power to local authorities through the Local Authority Transfer Fund (LATF) in response to international pressure and internal pressures for greater political freedom (Mwenda, 2010; Oyugi and Kibua, 2008). LATF gave citizens an opportunity to make input into how those funds will be used when local authorities consulted citizens on how to use the fund when formulating the Local Authority Service Delivery Action Plan (LASDAP).

The Kenya Local Government Reform Programme (KLGRP) was established in 1998 to spearhead local government reforms for good governance, efficient service delivery and local economic development (KLGRP, 2010). In 2010, the Kenyan Local Government Reform Programme identified the following challenges at the local level: weak local authorities incapable of delivering effective and efficient services and a lack of capacity (human and financial) to effectively undertake reforms. In light of current and previous challenges with citizen participation in decentralised funds the government of Kenya is cautious in pointing out

the critical need for “managing the transition to the new (devolved) system and people’s expectations.” (Republic of Kenya, 2012).

Other crucial social dynamics that play an influential role in participation outcomes are values of trust and cooperation. Putnam (1993, 2000) and Fukuyama (1996) maintain that trust is key feature needed within a social setting, not only to bring people to engage and cooperate with one another but also to see the community develop and prosper. Both Putnam and Fukuyama argue that the prevalence of trust in society makes community participation and cooperation possible and easier (Fukuyama, 1996; Putnam, 1993, 2000). The levels of social trust and confidence amongst each other as neighbours, fellow citizens and government institutions allow people to engage, communicate, share common goals and agree to collectively work together until goals have been reached (Sabatini, 2008).

In Kenya, suspicion and mistrust exists among communities and the state (Mueller, 2008). Political parties and public officials have been known to use state resources and public office to favour particular ethnic groups, deepening inequalities and fuelling inter-ethnic rivalry (MacArthur, 2008; Mueller, 2008). Both public officials and political representatives represent political elitism and patronage to citizens. Conflict arises from dialogue concerning sensitive issues such as access to resources as well as opportunities to participate in public policy. Studies by Devas and Grant (2003) and Porter and Onyach-Olaa (2000) in Kenya and Uganda respectively, showed how implementation of decentralised participatory local governance rules and procedures were negatively affected by how local governments interacted with communities, community organisations, and informal leaders on the basis of history, tradition, political and economic conditions.

Citizens interest in participation depends on perceptions regarding the costs and benefits of participation. Costs could include time and transportation costs, the perceived risk of challenging public officials weighed against possible benefits such as actual decision-making power over resource allocation and selection of service delivery projects (Goetz and Gaventa, 2001). An historical review of previous local government participation opportunities in Kenya through the Local Authority Service Delivery and Action Plans (LASDAPs) showed an emptying out of participation spaces or participation dwindling over time as a result of participation fatigue (Hendriks, 2010; Muriu, 2012; Syagga and Associates, 2007). The interest of Kenyan citizens waned due to their unrealistically high expectations and a lack of feedback

and visible results of citizen input. There were also unrealistic expectations about the potential for citizen participation to impact budget and policy making processes. The study will explore whether in today's Kenyan context, the new participation methods and approaches have potential to sustain public interest.

Civil society in Kenya has played an active role in demanding for greater political reform and Constitutional reform that promote participation, accountability and transparency since the 1990's (Centre for Devolution Studies, 2015; Devas and Grant, 2003; Hendriks, 2010). The demise of service delivery by local authorities and deteriorating local institutions in Kenyan communities particularly in urban areas such as Nairobi have seen assertive civil society organisations since the 1980s (Hendriks, 2010; Olima, 2013). The civil society organisations have been demanding public services and, in some instances, became directly involved in service provision to provide essential services of disadvantaged urban communities (Hendriks, 2010; Olima, 2013).

Organised civil society groupings such as Residents Associations have been representing and promoting the public interest for decades. However organised groups and the ruling party government in Kenya have been on opposing sides. Organised groups have been fighting against government corruption in public resource management particularly at the local level (Hendriks, 2010). The groups also fought for the promulgation of a new Constitution which devolved power and resources whilst the ruling government sought to maintain centralized power until the 2007 election violence led to a compromise for a Constitution referendum as part of the peace deal (Hendriks, 2010; Ndiku, 2014; Ngoju, 2013). The newly established joint participatory CBEF body is therefore aimed to strengthen relations between civil society and the state and to promote transparent, efficient and fair allocation and use of resources. Kenya and in particular Nairobi has developed a rich network of civic organisations with capacity to mobilize, organise and support public participation.

1.6 Decentralisation and citizen participation theoretical concepts

Democratic decentralisation indicates more than the relegation of authority at the lower levels. It bridges the gap between citizens, state institutions and processes of governance (Gaventa, 2004, 2007; Goldfrank, 2007, 2011; Lister, 1998). Devolution which is the most advanced form of decentralisation, is seen as an effective and important way of promoting democratic participation in the decision-making process. It is considered as a measure which brings

government much closer to the people thereby, enhancing opportunities of citizen participation, accountability and transparency of government actions (Brinkerhoff et al., 2007; Dabla-Norris, 2006; Gaventa and Cornwall, 2001; McNulty, 2011). New laws of devolution open new democratic mechanisms and spaces enabling citizens to directly take part in institutions and decisions that affect their lives (Gaventa and Cornwall, 2001; Goldfrank, 2007, 2011). The more decentralisation moves towards devolution, the more communities can be heard (Brinkerhoff and Azfar, 2006).

The last two decades have seen developing countries introduce even more advanced levels of decision-making power and resources to lower levels of government (Andrews, 2010; Dabla - Norris, 2006; Evans, 2004). Devolution in particular is said to be more effective for increasing efficiency in resource use as well as in identifying local needs and priorities (Fung and Wright, 2001; Ribot, 2007). With the assistance of development partners such as the World Bank, GIZ, USAID and others, Kenya is implementing a devolved system of governance (Republic of Kenya, 2012). Kenya's new devolved system of governance has in turn provided strong public participation provisions that County governments are required to effect including provisions for timely access to information, public involvement in County planning, budgeting and more importantly enact the necessary legislation to effect public participation (Sections 105; 115 of CGA, 2012).

More recently, there has been a significant shift in public discourse and development literature towards decentralisation approaches which incorporate opportunities for local participation in fiscal matters. The involvement of citizens in local government and public policy processes is considered to be as an influential factor in local governance outcomes. Opportunities for participation are now a vital factor in designing effective decentralised systems (Speer, 2012). Democratic decentralisation theory crucially assumes a system of governance that is democratic, accountable, participatory and responsive. It is also a system of governance which promotes ordinary citizens in particular the poor and marginalised to exercise influence and control over decisions that affect them (Fung, 2006; Gaventa and Cornwall, 2006; Shah, 2007; Speer, 2012). Democratic decentralisation theory is a response to the growing disillusionment among citizens about government's lack of accountability and responsiveness to the needs of the people. The theory is based on a participatory democracy premise which acknowledges that "elections will always be an insufficient mechanism for citizen voice and accountability" (Brinkerhoff, 2007: 192). It also implies the right for citizens to hold elected representatives

accountable for their performance during their tenure through other democratic means such as collective action and citizen participation (Blair, 2000; Hyden et al., 2004).

Democratic decentralisation literature (Ackerman, 2004; Blair, 2000; Crook and Manor, 2000; Manor, 1999; Pritchett and Woolcock, 2004) suggest a range of potential outcomes from citizen participation and decentralisation such as local government responsiveness, the creation of social capital (trust, norms, networks, communication) among communities and between citizens and the state. Additional outcomes improved service delivery for the poor, disadvantaged, and marginalized as well as local collective action. The record for achieving these outcomes has however been mixed. The partnership between community participation and local government is not always successful and there is often a gap between laws governing decentralisation and participation and what is practice (Bland, 2000; Brinkerhoff et al, 2007).

Researchers argue that decentralisation and citizen participation are largely dependent on the effectiveness of mechanisms and policies that the state pursues (Bjorkmann and Svensson, 2009; Devas et al., 2001; Mansuri and Rao, 2012; Moore and Putzel, 2000). This, therefore requires greater scrutiny of what state participatory mechanisms look like and how they operate in order to successfully implement decentralisation and citizen participation. It also requires that greater care and attention be paid to contextual factors as well as processes and methods that can either enhance or diminish the benefits of combining devolution and participation. Legislation on its does not translate to effective participation (Commins, 2007; Speer 2012). Making democratic decentralisation a reality faces a set of complex challenges which are explored below.

Devolved institutions are more efficient if there is sufficient human and financial capacity and efficiency required to meet its functions and responsibilities (Wunsch, 2001; 2014). Newly devolved institutions need central government human, financial and capacity building support for effective implementation (Dabla-Norris, 2006; Gugur and Shah, 2000). Creating and implementing citizen participation requires well-resourced devolved institutions, capacitated and skilled local public officials and the support of central government. Among the many challenges faced by previous Kenyan local government administration was insufficient resources and capacity which undermined and impacted negatively on the quality of inclusive participatory processes through LASDAP (Lubaale et al., 2007; Syagga and Associates, 2007). The Kenyan Ministry of Devolution and Planning has openly acknowledged the insufficient

capacity in County institutions to implement devolution and have cited capacitation constraints at the national level as hampering the implementation of devolution reforms at the local level (Centre for Devolution Studies, 2015). Insufficient resources and expertise in devolved institutions can undermine and impact negatively on the quality of inclusive participatory processes (Andrews, 2010; Grant, 2002). An absence of adequate human and financial resources can limit the levels of inclusiveness in participation processes.

Studies on decentralisation in developing countries have discovered other obstacles such as a lack of political commitment to reforms as well as a lack of support from local and central government to devolve power in order to maintain the status quo (Brinkerhoff et al., 2007; Devas and Grant, 2003, Heller, 2001; Wunsch, 2001, 2008). The new CoK has adopted political, administrative and fiscal devolution. In addition to having opportunities participating in County governance, citizens also have the opportunity to directly elect their local leaders (CoK, 2010). There is evidence in literature which suggests that when local government officials are directly elected by the electorate which is the local community, they are more likely to be more accountable, responsive and willing to engage with citizens (Bardhan and Mookherjee, 2000; 2006, Crook and Manor, 2000).

Kenyan studies on the LASDAP process found elite capture as an obstacle to achieving genuine participatory governance (Devas and Grant, 2003; Hendriks, 2010; Mitullah, 2004). Fiscal decentralisation increases opportunities for elite capture of public institutions due to the increase in influence of ruling elite at the local level and greater decision-making power available to local officials (Bird and Vallaincourt, 1998; Litvack et al., 1997; Triesmann, 1999). An additional mechanism proposed to prevent elite capture is for devolved institutions to make specific efforts at ensuring representation by inserting representative quotas for marginalised and vulnerable groups in participation initiatives (Bjorkmann and Svensson, 2009; Devas et al., 2001; Mansuri and Rao, 2012). Recent literature on citizenship has indicated the importance of the representative makeup of formal participation spaces (Fotel et al., 2008; Hendriks, 2010; Lavalle et al., 2005).

Much is expected from participation spaces yet, as with ‘participatory’ institutions “the preconditions for equitable representation participation and voice are often lacking within them” (Cornwall, 2004: 3). In some cases, ‘invited spaces’ are embedded in political and socio-cultural power relations which weaken the kind of deliberative, equitable and representative

decision making they aim to foster (Brock et al., 2001; Cornwall, 2004). Given World Bank support and developing agencies support for decentralisation and citizen participation, PFM reforms create invited spaces which differ from ‘invented spaces’ which “are arenas in which people come together at their own instigation whether to protest against government policies or private or external interventions” (Brock et al., 2001: 23). Externally imposed participation reforms and invited spaces often mimic agendas of global development institutions and activities as a strategy for governments in development countries to gain more funding and legitimisation. Meyer et al. (1997) and Andrews et al. (2017) argue that governments from developing countries end up adopting invited participation spaces and methods that are not always economical or socially and politically acceptable in the context.

Among the benefits of fiscal decentralisation is that, it offers new forms of building consensus, relationships, trust between communities and the state (Dabla-Norris, 2006). Open deliberations regarding policy and governance matters help to create better mutual understanding, to bridge differences in contexts previously marred by mistrust, suspicion and distance (Gaventa and Cornwall, 2000). Porter (2001) argues for proper facilitation and management of participation spaces particularly in contexts where there is conflict or if citizens have very diverse and polarized priorities and interests. Good facilitation means proper management of different interests and stakeholders (Grant, 2002). Grant (2002) cautions that decentralised participatory approaches should not be regarded as a panacea for all problems. Participation can increase tensions between communities and the state and within communities which may weaken enthusiasm for devolution and citizen participation. In addition, citizenship literature highlights the growing scepticism among citizens regarding the potential use of invited participation spaces to rubber stamp or provide legitimacy to state or elitist group agendas (Fotel et al., 2008; Hendriks, 2010; Lavallo et al., 2005). Lastly, effective implementation of public participation by public officials requires them to see the value of participatory governance (Evans, 2004; Goldfrank, 2007). Without that, local government authorities are less likely to take ownership of participation processes and more likely to dismiss citizen input (Rigon, 2015).

1.7 Overview of methodology

The research used a qualitative single case study approach which includes Nairobi County as the main unit of analysis including Nairobi County’s 17 sub divided geographical areas which represent different geographic boundaries and demographics. This was useful for comparing

the various implementation strategies and experiences of public participation between different Sub County (geographical) areas in Nairobi. Looking at the diverse geographical sub units each with a unique political, socio- economic and historical elements embedded within the greater Nairobi area, will provide rich data for analysis on participation techniques and perceptions as well as better illuminate the case of Nairobi County taking into account socio-economic factors.

Most studies on participatory governance have been conducted in the form of case studies and/or meta-analyses of these case studies (Speer, 2010, 2012). A case study enables the researcher to explore differences and analyze a setting and/or across settings (Yin, 2003). It is a valuable method for developing theory and evaluating programs by affording researchers a chance to investigate, describe and explain a phenomenon in context using a variety of data sources. The type of case study approach used for this study has both descriptive and explanatory elements. This means that this case study will aim to describe an intervention or phenomenon and the real-life context in which it occurs. In addition, the case study will also attempt to explore a decision or set of decisions as to why they were taken, how they were implemented, and with what results (Yin, 2003).

Case studies typically combine data collection techniques such as interviews, observation, questionnaires, and document and text analysis (Yin, 1994). Primary data collection methods in this thesis included: key informant interviews with County government officials responsible for facilitating and implementing public participation in County budgets and plans in Nairobi County government as well as state and non-state members of the Nairobi County Budget Economic Forum (CBEF). Other primary sources of data collection include key informant interviews with organised groups who regularly engage in the newly established formal participation spaces and represent citizen groups in participation forums, such as civil society groups and residential associations.

The interview sample purposively selected strategic participants (both public officials and organised groups) to investigate what structures, mechanisms and guidelines for public participation have been created by the Nairobi County government. The interviews also aimed to elicit information regarding: the new platforms for citizen participation; the progress made within the County in implementing public participation principles as stipulated in the *County Government Act* and the *PFM Act* and the challenges and successes of implementing new laws pertaining to participation by recently devolved institutions.

Supplementary data collection methods also included dissemination of semi-structured questionnaires to County officials working at the Sub County and ward level responsible for rolling out public participation forums. The purpose of the interviews was to collect information on the challenges and successes of the structures, mechanisms, guidelines put in place to facilitate public participation as well as to obtain participant's perceptions and experiences on implementation of citizen participation from a higher and diverse number of respondents. Responses from structured questionnaires assisted in gauging the extent of successes and challenges with County citizen participation mechanisms. The research also relied on supplementing data collection using data on citizen perception of local government participation and performance produced by *Afrobarometer* which is an independent non-partisan research network that conducts public attitude surveys on governance in Kenya and 30 other African countries.

Observation of a capacity building workshop on public participation forums and mobilization methods for Nairobi County officials at the County Executive, Sub County and ward level helped to develop insight into implementation of citizen participation in context and to collect information about the implementation of citizen participation independent of participant perceptions. Data collection also involved the collection and analysis of legal frameworks, policy documents, capacity building reports, websites, pamphlets and social media engagements of County officials and organised groups which shed further light on structures, mechanisms, methods as well as experiences of public participation forums on Nairobi County's budgets and plans. The researcher analysed County specific public participation frameworks and other key related documentation providing specific guidelines on the roll out of public participation budgeting and planning processes.

1.8 Thesis overview

The next chapter (**Chapter 2**) focuses on defining and understanding the key concept of decentralisation. The chapter not only presents a chronological overview of decentralisation discourse, it also focuses on themes, critical debates at the global and national level in relation to the practice of decentralised local governance particularly in developing country contexts. In doing so, the chapter lays the foundation and highlights the importance of the discussion and analysis chapters to follow. It also summarizes key features of democratic decentralisation which are considered critical for successful outcomes of decentralised policies and institutions. Chapter 2 also proceeds to unpack and explore citizen participation literature and Deliberative

and Inclusionary Processes (DIPs) which are mechanisms for ensuring meaningful and inclusive deliberation of public policy by citizens in decentralised local governance.

Chapter 3 contextualizes the concept of citizen participation in the study context by giving a historical overview of Kenya's post-colonial journey towards decentralised participatory governance. This provides better understanding of the contextual factors that matter when it comes to decentralisation and citizen participation in local governance in Kenya. It also reviews and captures lessons from Kenya's past experiences with decentralised participation in local service delivery through the former Local Authority Transfer Authority (LATF) and the Constituency Development Fund which inspired the current decentralised participation laws, methods and mechanisms.

Chapter 4 explains the research design and methods applied to the qualitative descriptive case study of citizen participation in devolved Nairobi County using a variety of data collection methods discussed briefly in section 1.8. **Chapters 5 and 6** analyses and discusses the data collected to answer research questions as well as key questions emerging from literature, legal and policy frameworks. A detailed discussion of how Nairobi County is organizing and implementing citizen participation in the County budget and plans is presented in **Chapters 5** highlighting both the context and challenges which Nairobi County officials has to roll out citizen participation. **Chapter 6** discusses the participatory mechanisms and approaches being applied by the newly devolved institutions to encourage inclusive and meaningful citizen participation in local budgeting and planning. Both chapters collectively assess the motives, capacities and potential effectiveness of the citizen participation tools and mechanisms.

Chapter 7 analyses the experiences and perceptions of the newly established participatory spaces and mechanisms in devolved Kenya by organised groups. It explores what, when, how and why different strategies are employed by organised groups to engage government and participate in local governance processes. The final, **Chapter 8** concludes by giving an overview of the research content and key findings. It highlights the main contribution emanating from the study, both in terms of theory and policy implications for the design and implementation of citizen participation legislation, mechanisms and spaces to make them more meaningful and inclusive. It also discusses main limitations and proposes possible areas for further research.

Chapter 2: The relationship between decentralised governance and citizen participation: A conceptual framework

2.1 Introduction

The purpose of this chapter is to define and understand the study's key concepts of decentralisation and citizen participation. It is thus an extensive literature review of the concepts of decentralisation and citizen participation examining past and recent trends, approaches and challenges to decentralisation and local citizen participation. The chapter also examines the complex relationship between decentralisation and citizen participation using theories of democratic decentralisation and participatory local governance. Both these frameworks capture perspectives attached to decentralised participatory local government approaches. The chapter not only presents an overview of decentralisation and citizen participation discourse, it also focuses on themes, critical debates at the global and regional level in relation to the practice of decentralisation and citizen participation particularly in developing country contexts. In doing so, the chapter lays the foundation of the discussion and analysis of the study's findings. The chapter also summarizes key features of democratic decentralisation policies and institutions which provides the legislative and institutional structure and basis for citizen participation in local governance. It also summarizes the Deliberative and Inclusionary Processes (DIPs) which are a list of participatory mechanisms necessary for ensuring effective, meaningful and inclusive deliberation of public policy by citizens. Both these features are used in this study to operationalize the research goals and questions.

2.2 The concept of decentralised governance

Under the 2010 Constitution, Kenya has embarked on the most ambitious and massive decentralisation project involving large scale political, fiscal and administrative decentralisation. Amidst this devolution project is the high expectation that the significant transfer of both power and resources to the local government level will resolve many of the issues plaguing the country such as high levels of poverty, poor service delivery, slow economic growth, government non-responsiveness, corruption and deeply entrenched disparities amongst citizens as well as distrust between citizens and the state (Republic of Kenya, 2012; World Bank, 2015).

Cheema and Rondenelli (2007) argue that the concept of decentralisation is closely associated with the concept of governance. Prior to 1980 governance as a concept focused on central

government as the dominant decision making and powerful player in society (Gurgur and Shah, 2000; Ostrom et al., 1993). By the early 1980's economic, social, political interaction across regions, countries and continents was increasing. Globalisation was emerging and spreading rapidly and so was technology and communication innovation (Giddens, 1999). New advanced methods of communication and transportation meant knowledge, information could be accessed and disseminated much easily and quickly at low costs. The rise of globalisation and technology helped transform society into becoming more complex and interconnected. Due to globalisation, the concept of governance grew more complex and expanded to include not only government but other important and influential global and local actors/societal institutions in business, private sector, civil society, multi-national corporations, international financial institutions as well as a variety of local, regional, international institutions and organisations (Cheema and Rondonelli, 2007).

Given the rise of multiple powerful and influential social actors and institutions, demands for political and citizen participation in economic policies, decision-making and governance matters grew. By the 1990s the concept of governance became synonymous with transparency, accountability, participation and representation. Inclusivity and decentralisation became more favourable than centralisation (Ostram et al. 1993; World Bank, 2000). Good governance took on new meaning and forms from the transfer of authority within government to the sharing of power, resources and responsibilities. Rondinelli and Cheema (2007) define decentralisation as “the transfer of authority, responsibility, and resources through deconcentration, delegation or devolution from the centre to the lower levels of administration.” Drawing from Mahwood (1983) and Smith (1985), Ribot (2002: 2) defines decentralisation as “the act by which central government formally cedes power to actors and institutions at lower levels in a political – administrative and territorial hierarchy.”

The popularity of decentralisation reforms across the different government spectrums can mostly be explained by economic and donor pressures (Therkildsen, 2001). International financial institutions, development agencies and academics began to associate decentralised governance with the following benefits and outcomes: development, efficiency, equity, democratization, improved service provision, national cohesion, local empowerment and poverty reduction (Ackerman, 2004; Blair, 2000; Crook and Manor, 1998; Manor, 1999; Pritchett and Woolcock, 2004; Ribot, 2002; World Bank, 2000). These are the most popular benefits highlighted, discussed and debated in literature. However, decentralisation in practice

may or may not result in these benefits depending on the type of decentralisation being implemented and the existence of other key factors (see figure 1 in section 2.4). Put simply, decentralisation is “reversing the concentration of administration at a single centre and conferring powers of local government.” (Smith, 1985: 1). Decentralisation is thus power moving away from the centre however decentralisation is more than just a dichotomy of centralisation because of the different forms and levels that power can deviate from the centre. Ground breaking work by (Conyers, 1983) and Rondinelli et al (1984) depicted decentralisation as a conceptual continuum, conventionally dividing into the following types to show the range of distinction between centralisation and decentralisation i) deconcentration ii) delegation iii) devolution (Hutchcroft, 2001; Wunsch, 2014). In outlining the three forms of decentralisation, further distinction is again made between administrative, political and fiscal decentralisation (Falleti, 2005; Watts, 2014). The next sections discuss the different forms of decentralisation and their purported advantages and disadvantages and implications for local governance.

2.2.1 Deconcentration

The first wave of decentralisation reforms between the 1970s and 1980s was more in favour of creating smaller, more efficient structures at sub national and local levels (Mawhood, 1983; Smith, 1985). Deconcentration is defined as the transfer of power to local branches in the form of establishing local field offices of central government ministries and departments (Manor, 1999; Oyugi, 2000; Ribot, 2002). Officials based at localised field offices were merely an extension of the central government offices. The process of deconcentration involves the delegation of central government’s administrative authority to localised units or semi-autonomous state agents. Deconcentration can include administrative decentralisation which refers to a transfer of authority to lower-level central government authorities, or to other local authorities who are upwardly accountable to the central government to administer resources and matters that have been delegated to them generally through a Constitution (Ribot, 2002; Mueller, 2015). Deconcentration can create strong local administrative capacity under the supervision of central government ministries.

The purpose of deconcentration is to improve service delivery by making it more efficient, accessible, easier and accurate to plan and manage public services (Rothchild, 1994; Ribot, 2002; Tendler, 2000). The objective of this form of decentralisation is efficiency in recognising the constraints of centralised developmental planning and management. Increased administrative efficiency is one of the most appealing outcomes of decentralisation which

addresses the failures of highly centralised planning. Research has shown that decisions that are made locally are likely to be better suited with people's needs making resource use efficient and effective (Gaventa, 1980; Gaventa and Cornwall, 2006; Giddens, 1984; Narayan-Parker, 2000; Stokke, 2000).

Deconcentration is considered to be the weakest form of decentralisation due to the insufficient autonomy and the lack of strong links between public officials, resources and the local population (Ribot, 2002). However, decision-making is quick and flexible if local authorities have autonomy to make decisions. Saito (2000) points out another disadvantage with de-concentrated local units is that decision making power is retained at central government level which may not be willing to invest in lengthy or costly local development programmes such as water access, health care and may instead choose to invest in high profile or short-term activities such as road infrastructure.

Another weakness of deconcentration is that it can also be used as a tool to establish or consolidate central power and control of remote or problematic areas. Kenya's 1980 deconcentration policy was used to maintain central presence in the local area. Decentralisation in Kenya in the 1980s "intended to increase efficiency of central government administration rather than promote local autonomy or popular participation" (Conyers, 1983:28). Former Kenyan presidents Kenyatta and Moi established their rule and political support through district administration (Therkildsen, 1993). Mamdani (1996) likens this governance style in Africa to the colonial period. Rothchild (1994: 2) stated that it was also strategic to maintaining popularity by "off-loading a set of costly responsibilities upon local actors." In the 1980s both Cameroon and Kenya argued for a form of deconcentration and a 'one party state' to co-exist as necessary tools for integration and national unity (Rocaboy et al., 2013). De-concentrated local governments would ensure that communities were represented and that the local service delivery was more efficient but according to Ribot (2002) it also meant the loss of local democracy or empowerment opportunities for communities in decision making.

2.2.2 Delegation

Unlike deconcentration, central government goes a step beyond merely transferring administrative authority to delegating responsibility for decision-making and administration of public functions to lower levels of semi-autonomous governments. Under delegation, local authorities are not wholly controlled by the central government, but they are ultimately

accountable to it (Ribot, 2002; Mueller, 2015). Delegation is different from deconcentration because it empowers local officials with some level of decision-making power regarding the administration of public policy and service delivery. Usually these local governments do not have complete decision-making power, but they have permission to apply a great deal of discretion in decision-making and in some instances, they may be able to charge users directly for services (Hutchcroft, 2001).

Delegation is the first step towards creating local spaces where interaction around public policy, representation is established between the government and its citizenry (Wunsch, 2014). This is important for creating relationships of trust and legitimacy between the State and its citizens. Delegation releases national control allowing local authorities to align local government planning with private needs by increasing the opportunities for state-society interactions. Ensuing local government proximity to citizens is among the popular rationales for delegating administrative and decision-making power however local governments do not always have the capacity to better manage resources and match their constituents' preferences. Inexperienced, small local governments may not have the technical capacity to effectively make decisions or administer service delivery.

2.2.3 Devolution

Under deconcentration or delegation subnational units of government are without autonomy, they are mere extensions of central government bureaucracies and represent no change from existing systems (Wunsch, 2014). Devolution is considered by some as an advanced form of decentralisation allocating the greatest degree of administrative, political and fiscal autonomy and power to decentralised local governments. Devolution is considered as the most advanced level of decentralisation because it involves administrative, political and fiscal decentralisation (Agrawal and Ribot, 1999; Cheema and Rondenelli, 2007; Oyugi, 2000; Ribot, 2002). Administrative decentralisation captures the extent to which sub national governments establish and manage their own bureaucracy separate from the centre. The fiscal dimension empowers local governments with the functions, responsibilities and resources by which to implement local policies and programs. Fiscal decentralisation empowers local authorities with autonomy in fiscal matters such as tax raising powers as well as the power and authority to spend and borrow without seeking permission from the centre (Wunsch, 2014). Political decentralisation “is the transfer of political authority or electoral capacity to sub national

actors” (Faletti, 2005: 329). Political decentralisation strengthens the autonomy of sub national governments through the creation of sub national legislative assemblies or Constitutional reforms that allows for the election of sub national actors into public office (Faletti, 2005). In addition, political decentralisation provides local governments with the legal authority to exercise power and make decisions. It also enables a framework for citizens to participate and influence local policy making and priority setting.

There is agreement amongst scholars that devolving of fiscal powers is one of the most advanced and the strongest forms of democratic decentralisation because without decision making power over resources as well as power over the implementation of resources, citizen participation and political decentralisation is not nearly as effective (Akai and Sakata, 2002; Manor, 1999; Prudhomme, 2001; Wunsch and Oluwu, 1995). The *Constitution of Kenya* (CoK) in 2010 ushered in a devolved governance framework restructuring authority and power at the lower level. Unlike never before, local (County) governments have been given powers of self-governance accompanied with the transfer of both authority, resources and functions from the national government to the County governments (CoK, 2010).

Devolution grants local authorities and institutions decision making authority, responsibility as well as human and financial resources to provide services. It also grants local governments the autonomy and power to raise funds, collect taxes and allocate expenditures, formulate and implement public policy (Cheema and Rondenelli, 2007). Devolution allows for global economic activity to occur within countries because it empowers local governments to also make favourable domestic/local economic policies and plans to attract domestic entrepreneurs, private sector, foreign investors and foreign direct investment. Akai and Sakaita (2002) argued that this in turn would grow the local economy, create jobs, and develop local areas and infrastructure. Such outcomes, however, require autonomous and strong local governments with the fiscal capacity to facilitate the participation of individuals, enterprises, towns, cities, provinces in local, national and global economic policies. It also requires co-operation, support of national government in establishing the means and the mechanisms to share public revenues among all levels of government and capacitate local government to allocate expenditures and fiscal autonomy (Cheema and Rondinelli, 2007; Fung and Wright, 2001; Ribot, 2007).

On the other hand, there lies the risk that fiscal decentralisation can exacerbate inequalities between regions, increasing the gap between wealthier and poorer regions unless central government incorporates re-distribution policies and formulas in their national transfers (Ribot, 2002; World Bank, 2000). Developing countries were pursuing decentralisation in order to adapt to the changing global economic market. Fiscal decentralisation was viewed as instrumental for local and regional development, improved service delivery, job creation but all these benefits require strong local governments with the financial ability and flexibility to respond effectively to local needs and demands. This also meant the need for strong capacities of local structures, organisations and personnel to manage fiscal resources and public services (Eble and Yimaz, 2000).

An additional reason for the third wave of fiscal decentralisation was the link between central governments, weak economies and authoritarian regimes (Dabla-Norris, 2006). Governments were also under a lot of internal pressure to decentralise by political, ethnic and religious groups who increasingly wanted autonomy from their overbearing governments (Cheema and Rondenelli, 2007). Fragile states recovering from military conflicts were attracted to decentralisation policies. Those recovering from conflicts faced many social economic and political challenges. Promoting democratic governance, conducting elections, addressing human rights violations, reconciliation, equitable sharing of public resources, rebuilding infrastructure and creating jobs could all be simultaneously addressed by decentralisation. Devolution was therefore often used as a compromise to succession debates by minority groups who were seeking more decision-making power, influence, consultation over resource allocation and policy formulation (Dabla-Norris, 2006). Devolution was considered as a way of building social cohesion and empowering marginalized communities with voice and influence.

Unlike deconcentration and delegation, devolution opens up greater citizen participation of citizens in local government matters through the electoral vote as well as through opportunities to make input into local government affairs. Devolution broadens the concept of sharing decision making power between various actors in society. However, in some instances devolution plus local elections has led to elite capture, high levels of corruption, continued poor administrative performance, and exclusion of citizens (Crook and Manor, 1998; Ribot, 2002; Wunsch, 2014).

Devolution is the form which best resembles Kenya's most recent decentralisation reforms as designed and envisioned in the 2010 Constitution. Devolution is thus the most relevant in terms of operationalizing and understanding the study's key questions. Kenya's Constitutional and Public Finance Management reforms allows County governments to play a more representative and responsive role through decision making authority which empowers them to meaningfully respond to local needs and preferences.

Kenya's Constitution provides for political and fiscal decentralisation which are the mechanisms by which to further support consultation processes with citizens as well as local desires are incorporated into decision making (CoK, 2010; *PFM Act*, 2012). This benefit is likely realized when local government has sufficient power and resources to implement citizen input and provide services. Local authorities also need to have decision making power over local matters and the use of local resources thereby making political and fiscal decentralisation critical pillars for democratic decentralisation. Political and fiscal decentralisation is also important for citizen participation as citizens are more likely to participate in local affairs/processes where local governments have the power to make decisions, raise revenue, borrow allocate expenditures and implement (Devas and Grant, 2003; Grant, 2002; Hendriks, 2010). Article 209 of the new Constitution of Kenya grants County governments the freedom to generate revenue by imposing rates and taxes such as property taxes, entertainment taxes, charges for services they provide or for any other tax authorized by an act of Parliament. The Counties also receive money in the form of County government transfers and conditional grants from the national government as well as revenue sourced externally from borrowing and receiving aid.

Article 176 (CoK, 2010) establishes a County Assembly as well as a County Executive which are both elected into power to administer service delivery functions outlined in Articles 183-189 (CoK, 2010) which includes but is not limited to primary health care, agriculture, pre-primary education, transportation, planning and development, public works and disaster management. Furthermore Articles 175-179 (CoK, 201) and the *County Government Act* (2012) make reference to the County government structure as well as its relationship with national government as devolution. According to Article 175 (CoK, 2010) the primary objective of decentralisation is to devolve power, resources and representation down to the local level. To this end, various laws have been enacted by Parliament to create strategies for

the implementation framework and the adoption on which objectives of devolution can be achieved.

The struggle for Constitutional reforms in Kenya centred around the transfer of power and resources to people at the grass roots level as a way of reducing poverty levels, increasing local economic development, efficient service delivery and local government performance (Ngoju, 2013; Republic of Kenya, 2012). There has been calls for secession from Kenya by Mombasa County which is in the coastal region of Kenya. The calls have primarily made by the *Mombasa Republican Council* (MRC) which has been outlawed once before. Prior to the 2013 general elections, Mombasa was a site of terrorist bombings and protests by the MRC (Chonghaile, 2012). Kenya's coastal region succession calls are based on claims of decades of neglect by the central government in Nairobi and historical betrayal of Kenyatta and Moi governments which resettled Kikuyu peoples on coastal land at the expense of coastal peoples (Chonghaile, 2012; Dowden, 2010). Over the years, rising levels of poverty, unemployment and poor service delivery are said to have contributed further to the calls for secession, particularly among the young. The adoption of devolution by the Kenyan government is one of the ways in which it is trying to address internal ethnic conflict and economic disparity.

Decentralisation would also allow local governments to develop capacities and more efficiently manage an ever-growing public policy agenda by interacting with citizens as customers and formulating partnerships. Partnerships were said to be good when there is insufficient government capacity and public dissatisfaction with government services and there is solid private sector accountability to deliver more efficiently (Ackerman, 1994, 2004). Partnerships can increase local government's ability to respond to people's needs and to meet expectations. Under the Kenyan devolution framework, there is acknowledgment of the role of non-state actors in assisting local governments in governance matters. Kenya's new *PFM Act* creates a body called the County Budget Economic Forum (CBEF) consisting of both state and non-state actors mandated to work together in facilitating genuine citizen participation in County (local) budgets and plans (PFM Act, 2012).

2.2.4 Democratic decentralisation theory: Bridging the gap between devolution and citizen participation

Democratic decentralisation theory is a response to the growing disillusionment among citizens about government's lack of accountability and responsiveness to the needs of the people.

Democratic decentralisation theory is crucially based on a system of governance which promotes ordinary citizens in particular the poor and marginalised to exercise influence and control over decisions that affect them (Bergh, 2004; Crook and Manor, 2000; Gaventa and Cornwall, 2006; Larson and Ribot, 2004; Speer, 2012). Participation in decision-making is expressed as a vehicle by which people can access and enjoy other human rights (Lister, 1998).

Some theorists such as Oluwu and Wunsch (2004) and (Ribot, 2002) use the term devolution and democratic decentralisation interchangeably. This is because devolution, in itself, is seen as an important means of increasing democratic participation in the decision-making process. According to Ribot (2002), the term democratic mainly refers to accountability of the leaders to the people. What distinguishes devolution from the other forms of decentralisation is the aspect of greater levels of accountability between citizens and the state. Democratic decentralisation theory argues that participation of ordinary citizens in public policy is good for increasing accountability and responsiveness particularly where decision making power has been significantly devolved from central to local government (Blair, 2000; Brinkerhoff et al., 2007; Crook and Manor, 2000; Wunsch, 2001). According to democratic decentralisation theorists, this advanced level of decentralisation is useful for building a state accountability and responsiveness state to the participation of local citizens in decision making processes (Bardhan and Mookherjee, 2006; Blair, 2000; Crook and Manor, 2000; Grant, 2002; Ribot, 2007). New laws of devolution open new democratic mechanisms and spaces enabling citizens to directly take part in institutions and decisions that affect their lives (Gaventa and Cornwall, 2001; Goldfrank, 2007, 2011). The more decentralisation moves towards devolution, the greater the space for communities to exercise voice (Brinkerhoff and Azfar, 2006). Greater participation of citizens is key to the theory of democratic decentralisation. Under democratic decentralisation, local authorities are accountable to local populations for the use of their power and resources. Democratic decentralisation broadens the concept of decentralisation to include the sharing of political or decision-making power between various actors in society by opening up governance to citizens, the private sector and civil society and allowing them to take part in policy making and decision-making processes (Cheema and Rondenelli, 2007).

According to Oyugi (2000) and Ribot (2002) the benefits of democratic decentralisation can be best derived from devolution. Whilst the overall objective of deconcentration is efficient service delivery, among the many benefits of devolution is the aspect of public participation which opens up decision making processes to all members of the community to all have equal

say over the use of resources. Public participation that has representation of minorities and vulnerable groups is considered even better since it empowers members of society who are voiceless and excluded to affect local affairs (Narayan, 2000). Democratic decentralisation therefore aims to increase accountability and public participation in decision making by transferring some decision-making power and or resources from central government to the lower levels closer to the people (Ribot, 2002). This therefore strengthens the representative and responsive roles of local institutions as well as citizen-state relations. The process of participation, engagement and bargaining between communities and government can help rebuild trust, reinforce or reconstruct national unity particularly in post conflict areas (Oluwu, 2001; Rothchild, 1994).

Major democratic decentralisation policy reforms unfolded in Africa and other developing countries in the 1990's although decentralisation was by no means a new phenomenon in Africa (Crook and Manor, 1994; Mamdani, 1996; Wunsch, 2001). Decentralisation was part of the colonial strategy to control and manage rule over the local population. The shift in the objective of decentralisation in post-colonial Africa came about in the late 1980s to the early 1990s which shifted away from national control and bureaucratic management towards democratisation and human rights (Ribot, 2002; Oyugi, 2000). CSOs, community groups, social networks were viewed as powerful instruments for decentralisation and democratic governance. They increased state-citizen relations, legitimacy and support for government programmes by taking part in public policy decision making. This period of intense involvement, lobbying and advocacy by non-state actors in turn created a new meaning for democratic governance which included establishing an official framework consisting of legislation and institutions that facilitate the participation of citizens in public policy (Conyers, 2000; World Bank, 2000).

A change in the definition of the term 'governance' included multiple actors sharing power. Charlick cited in Kassimir (2001: 125) defines governance as "the ways a society organises to use power to manage public resources involving the making and implementation of collective decisions, enforcement of rules and resolution of conflicts." In the 1990's, the United Nations redefined democratic governance to include "the exercise of citizens, CSOs and non-state actors/institutions economic, political and social rights to express their opinions, articulate their interests, engage with government regarding the management of the country's affairs" (UNDP, 1995: 121). This therefore implied a new mandate for governments to create opportunities and mechanisms for citizen participation in decision making (UNDP, 1998).

Kenya's new devolved system of governance has in turn provided strong public participation provisions that County governments are required to effect including provisions for timely access to information, public involvement in County planning, budgeting and more importantly enact the necessary legislation to effect public participation (Sections 105; 115 of CGA). Similar to democratic decentralisation theory, the objectives of devolution in Kenya as stated under Article 174 (CoK, 2010) are:

- a. To promote democratic and accountable exercise of power;
- b. To foster national unity by recognising diversity;
- c. To give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them;
- d. To recognise the right of communities to manage their own affairs and to further their development;
- e. To protect and promote the interests and rights of minorities and marginalised communities;
- f. To promote social and economic development and the provision of proximate, easily accessible services throughout Kenya
- g. To ensure equitable sharing of national and local resources throughout Kenya;
- h. h. To facilitate the decentralisation of State organs, their functions and services, from the capital of Kenya; and
- i. To enhance checks and balances and the separation of powers.

These objectives demonstrate that Kenyan decision makers and citizens place high priority in democratic outcomes. However, Eaton and Connerly (2010) argue that devolution does not necessarily lead to democratic outcomes and that in fact democratic outcomes are commonly constrained by national instability and poor social cohesion. Furthermore, devolution may help entrench local dominate actors resulting in undemocratic outcomes such as elite capture and corruption. Wunsch et al. (2014) study of decentralisation in Africa argue that so far there is little evidence from in Africa that demonstrates improved democratic governance, local government responsiveness and service delivery since the introduction of decentralisation.

2.3 Decentralisation in developing countries

According to Wunsch (2014), over the twenty years, decentralisation has occurred in more countries in Africa than anywhere else in the world. Despite the popularity of democratic and decentralised forms of governance over the last two decades, this is not to say democratization

and/or decentralisation has been easy or successful (Cheema and Rondenelli, 2007; Speer, 2012). Reformers quickly learnt that decentralisation is not a panacea for all problems and neither is it an end in itself. Some successful attempts to decentralise yielded some of the propagated benefits but there were other cases that failed or achieved mixed outcomes. Blunt and Turner (2007) argued that political or democratic decentralisation often fails to deliver in practice what it promises in theory. Other scholars (Brinkerhoff et al., 2007; Oyugi, 2000; Ribot, 2002) argue that the mixed outcomes are as a result of the poorly structured and implemented decentralisation reforms. Local governments and local institutions are key to the realization of decentralisation benefits. According to Oyugi (2000) the legal and political design of local governments in Africa have actually hindered or weakened the benefits of decentralisation.

Another challenge is that most reforms are labelled as decentralisation, but they lack the basic political and economic environment which forms the basis for the positive outcomes promised by decentralisation (Ribot, 2002). According to the 2000 United Nations Capital Development Fund (UNCDF) and World Bank 2000 reports, major decentralisation reforms were underway across Africa and other parts of the developing world in the 1990s (World Bank, 2000). However, the reports found that there was a lack of accountability between local officials and the local communities. There was also a lack of autonomous or discretionary power (World Bank, 2000). Multiple levels of local government diluted its power and there were hidden motives for implementing decentralisation. Decentralisation was being implemented haphazardly or being designed in such a way as to maintain central control (Alcon, 1999; Conyers, 2000; Mahwood, 1983). According to Conyers (2000) democratic decentralisation threatened the power of many actors and hence many decentralisation attempts took the weakest form of decentralisation. Instead of local authorities being given decision making power and authority, local governments were mere de-concentrated units of central government.

In addition to that is the research challenge of linking causal relationships between decentralisation and its many benefits. Some cases found little correlation between decentralisation and economic growth and improved service delivery outcomes (Francis and James, 2003; McNulty, 2011; Speer, 2012). Decentralisation is believed to improve service delivery by devolving responsibilities to other actors and creating competition amongst multiple service providers. Evidence linking decentralisation to better service delivery

outcomes is beset by the difficulties of proving a direct causal relationship between decentralisation and its benefits whilst isolating other contributing factors (Smoke, 2001; World Bank 2000). A study by Smoke and Lewis (1998) in South East Asia discovered that governance operations are more effective and less costly when decentralised. However, another study by Francis and James (2003) looking at decentralised planning in Uganda revealed more efficient planning between central and local government however participatory structures remained clientelistic and non-inclusive.

Another challenge facing decentralised service provision is a lack of funds. Local authorities may not always have sufficient funds to deliver quality services (Andrews et al., 2010; Oyugi, 2000). Central governments also need to assist local governments with the necessary capacity to set and implement good standards for improved service provision. However, this requires central governments to be well resourced. Local governments need the support of a strong and well-resourced central government and hence a balance is needed in terms of sharing resources and capacity between national and local in a way that strengthens both levels of government without weakening the other (Andrews, 2010; De Gramont, 2014).

Among the most common benefits ascribed to decentralisation is that it allows local governments to accurately match local preferences with services as well as strengthen public accountability through resource efficiency and reduce the risk of corruption. Practice has shown that though local institutions are better positioned, they are not always better equipped to respond to local needs and preferences (Devas and Grant, 2003; Ribot, 2002). Furthermore, the arguments for efficiency arising from local officials better matching needs with resources, consulting with the populace and weighing the consequences of each decision is mostly true if there are mechanisms in place to hold authorities accountable to the local population and actual consequences for those who do not make better decisions, consult the public or listen to the people (Ackerman, 2004). The main feature of decentralisation is to empower people at the grassroots level by transferring resources and decision-making power from the central to the local government however there is evidence in literature that points to the emergence of politically and ethnically dominant local groups or elites that influence local planning and resource allocation (Khan, 2008).

Partnerships between the government, CSOs and the private sector mostly for the purposes of service provision, is one of the most attractive qualities of decentralisation. Brinkerhoff et al.

(2007) found that these partnerships had insufficient capacity and that they were often not designed to be mutually beneficial and were not always in the interests of all those participating. Decentralised local governments as well as CSOs mostly faced challenges of low administrative capacity to manage and administer resources (Davoodi and Zou, 1998; Estache and Sinha, 1995; Martinez-Vazquez and McNab, 2003).

Decentralisation reforms were in some instances met with resistance from powerful elites whose interests were threatened by devolving power and resources from central government (Cheema and Rondinelli, 2007; De Gramont 2014). In other instances, elites welcomed decentralisation because it expanded and strengthened their power and influence (Khan, 2008). Some studies found that decentralisation increased levels of corruption, nepotism and elite capture of local governments (Crook and Manor, 1998; Fisman and Gatti, 2002; Rigon, 2015; Saito, 2000). Crook and Sverrisson (2001) found that the link between decentralisation empowerment and government responsiveness to people's needs is determined mostly by ideological leftist political parties who promoted decentralised participation to strengthen pro-poor spending and the quality of local-central relations.

Inclusivity and participation are at the centre of most discussions on democratic decentralisation (Devas and Grant, 2003; Oyugi, 2000; Pritchett and Woolcock, 2004; Sharma, 2000). Decentralisation in Africa was mostly introduced under the banner of public participation in local government budgetary and planning (Oyugi, 2000; Rigot, 2002). The impact of decentralisation on citizen participation also varied from country to country depending on the form of decentralisation and the political situation in the country. In Africa, local governments were not as open and they also constrained or limited citizen participation as did previous central governments (Devas and Grant, 2003; Francis and James, 2003; Porter and Onyach-Ola, 2001). Democratic decentralisation requires local resources and decisions to be made transparent and open to the public. Citizen participation in decision making processes needs to be supported by rights and systems that makes participation possible, meaningful and equitable. These rights and accountability mechanisms need to also be applied non-discriminately to all in order ensure equal engagement in decision making processes. There is little evidence however to show that democratic decentralisation in practice supported by actual laws, institutions and mechanisms in place has ensured participation occurs in an inclusive and equitable manner (Speer, 2012).

Based on experiences in Mali, Senegal and Ethiopia, Hyden (2007) argues that decentralisation in Africa has not worked in the past because of central governance dependence on external funding, clientelistic politics and limited capacity within and outside government. African decentralisation experiences in Kenya and Uganda further highlighted the challenges around citizen participation and the influence of multiple factors on participation outcomes such as political interference, clientelism, poor monitoring of implementation by central governments as well as insufficient information and skills amongst citizens to participate in public policy (Devas and Grant, 2003; Fracis and James, 2003; Hyden, 2007). Findings in Africa and Latin America revealed that decentralisation was but one of the essential elements needed for effective citizen participation. The findings also revealed that “the relationship between decentralisation and citizen participation is conditioned by complex political, historical, social and economic factors that differ in strength and importance among and within countries” (Cheema and Rondinelli, 2007: 9).

In the Middle East and Asia, the presence of CSOs did not necessarily result in real empowerment and engagement. Studies showed that CSOs sometimes lacked the expertise and capacity to facilitate or participate in decision making (Andersson and Van Laerhaven, 2007; Shatkin, 2000). Non-state actors also faced other limitations such as media freedom, access to information and freedom of expression (Brinkerhoff and Azafar, 2006; Goldfrank, 2007b, 2011; McNulty 2011; Wampler and McNulty, 2011).

Democratic decentralisation mechanisms and institutions are not always supported by cultural and social norms. Saito’s (2000) study of Uganda’s decentralised rural planning system found that women faced cultural obstacles which prevented them from attending and participating at meetings. Participation of rural communities is often challenging due to high levels of diversity in the community based on class, caste, livelihood, gender, age, religion, ethnicity and race and therefore questions of community representation arise (Guijt and Shah, 1998). This requires participatory processes to be diverse and representative of all members of the community and for participatory mechanisms to ensure equity of all community members in terms of access and voice. In order to ensure equity in participation, Uganda established locally accountable representatives such as village chiefs, elected community members to represent the community as a whole or a sub-set of their community (Onyach-Ola and Porter, 2001; Saito, 2000).

In most countries that undergo decentralisation there is always some form of donor support present driving the decentralisation process (Andrews, 2010; Speer, 2012). This is often justified by the financial benefits and the additional revenue sources attached to donor support of decentralisation reforms. It would appear from the research on decentralisation that the successful implementation of decentralisation is dependent on a number of multiple and complex factors and conditions which makes success uncertain in any country (Andrews et al., 2008; Parker, 1995; Shah and Thompson, 2004). This goes to show that there appears to be no uniform approach to yield successful outcomes in all settings. Reform initiatives cannot merely be transported or applied in other contexts and automatically result in success (Andrews et al., 2017; De Gramont, 2014). These scholars argue that decentralisation reforms always require the right context, right time and the right type of decentralisation in order for them to be successful. According to Rondinelli and Cheema (2007), decentralisation failures have more to do with government ineffectiveness to implement it and less with inherent faults with the concept itself.

Similar to democratic decentralisation theory, Kenya's Constitutional and Public Finance Management reforms allow County governments to play a more representative and responsive role through decision making authority which empowers them to meaningfully respond to local needs and preferences. For the purposes of this study, the concept of democratic decentralisation has been summarised and was used to analyse the extent to which the aspects identified in this section and in section 2.2 as critical for the success of democratic decentralisation are present in the context and institutions in which the newly established participatory institutions, programs, policies and mechanisms are operating. Based on the above studies listed in this section, the figure below is a summary of some of the key requirements identified in literature which need to be taken into account in order to successfully design policies and programs that facilitate democratic decentralisation.

Figure 1: Operationalization of key requirements for a strong design of democratic decentralisation policies, programs and mechanisms.



Source: Own compilation largely based on decentralisation studies by Brinkerhoff et al, 2007; Conyers (2000); Devas and Grant (2003); Francis and James (2003); Hyden (2007); Ribot (2002;2007); Rondinelli and Cheema (2007) as well as other studies listed in section 2.3 and 2.4.

Most decentralisation literature focused on expected benefits, theoretical discourse and less on practice and outcomes. Decentralisation literature has now shifted its focus on making decentralisation better, looking at why and how some decentralisation programs are successful and why others are not. In the meantime, the benefits of decentralisation remain non-conclusive. The relationships between decentralisation and economic development, citizen participation, political and social development still need to be clarified. These claims are still being propagated and still need to be examined further and verified.

Despite the challenges and mixed reviews, decentralisation remains popular and a core prescription of donors and development agencies and international financial institutions. Governments adopting political decentralisation will generally receive strong support from western donors and international development institutions. Similarly, with the assistance of development partners such as the World Bank, GIZ, USAID, the Canadian International Development Agency (CIDA) and others, Kenya is implementing a devolved system of

governance (Republic of Kenya, 2012). This is because decentralisation remains tied to benefits such as democratic governance, increased participation and economic growth. On the other hand, one cannot ignore decentralisation ties to political patronage, the spatial politics of power and other power dynamics influenced by local history, ethnicity and/or gender (Khan, 2008).

2.4 Linking decentralisation to participation: Theories of participatory governance

Participatory governance is defined as “the participation of ordinary citizens in the public policy process” (Andersson and Van Laerhoven, 2007: 1090). According to Andersson and Van Laerhoven (2007), citizen involvement in governance issues such as the use of public funds, the design of public policies and the monitoring and evaluating of government spending is at the core of participatory governance. Currently, participatory governance is being implemented by a large number of developing countries as reform strategies from international financial institutions and development agents (Speer, 2012). Reasons for introducing such reforms are based on numerous studies that claim that participatory governance mechanisms are bringing about several public policy benefits such as improved efficiency, better delivery of public services whilst empowering citizens, deepening democracy; increasing local government responsiveness and accountability (Avritzer, 2009; Goldfrank, 2007; Andersson et al, 2009; Speer, 2012; Wampler and McNulty, 2011).

In anticipation to realise these benefits, participatory governance mechanisms have become a part of the development policy agenda since the 1990's. A large number of laws promoting participatory governance have been passed and a large number of reforms have been introduced by developing country governments. Some of the reforms introduced include ‘public hearings’ in India and the Philippines (Shatkin, 2000); vigilance committees in Bolivia and Philippines (Bland, 2000); participatory budgeting in Brazil and Peru (Schneider and Goldfrank, 2002; Wampler, 2004; McNulty, 2011); forums of participatory planning and decision making over public service provision in Bolivia, Mali, Uganda, Kenya and Mexico (Andersson et al, 2009; Devas and Grant, 2003; Porter and Onyach-Olaa, 2000).

The argument that participatory governance is good for increasing accountability and responsiveness of local governments is embedded in decentralisation literature (Speer, 2012). The literature on decentralisation in developing countries is often discussed with participatory governance because of the close link between the two on the issues of delegation of power to

lower levels of the state. The argument is that decentralisation makes government more efficient and effective in delivering its services with a key focus on how public resources should be distributed between different levels (Pritchett and Woolcock, 2004). Participatory governance literature focuses attention on the role of citizen involvement in decision making process regarding the use of public resources and/or the delivery of public services.

Participatory governance literature is of the view that participatory governance strengthens democracy through the use of deliberative forms of decision making. It is believed that debates, transparency, consultations will lead to better policy outcomes and state decisions (Avritzer, 2002, 2009; Bishop and Davies, 2002). The argument is that participatory governance mechanisms improve the flow of communication between government and citizens particularly about government's decisions and the outcomes of these actions. When citizens are consulted, this is likely to improve government responsiveness and accountability as a result of government knowing more about citizen needs (Speer, 2012). Citizens are also in a position to monitor the quality of services and demand corrective action from their government (Goetz and Jenkins, 2001).

Another school of thought (Gaventa and Cornwall, 2006; Mohann and Stokke, 2000; Narayan-Parker, 2000) maintains the perspective that poor citizens and human capabilities are enhanced through participatory governance by enabling them to overcome existing societal and political power structures. It empowers the poor to successfully challenge the existing status quo and improve their livelihoods. This is a popular concept in participatory governance termed "empowered deliberative democracy" (EDD). According to this view, "the goal of participatory governance is to allow citizens to influence the design and implementation of regulations, plans and implementation of public services" (Speer, 2012: 2382). The view maintains that public service providers together with public service users through public participation can develop governance solutions which are tailored to local circumstances and to meet the needs of the poor and the vulnerable.

Participatory governance mechanisms include citizens in the management of state affairs. It is about rights and empowerment. According to Ackerman (2005: 1), the three largest challenges to good governance in the developing world is "corruption, clientelism and capture" which all refer to the use of public office for private gain. These three issues in addition to robbing state coffers, also affect the delivery of services (Ackerman, 2005). Participatory governance

incorporates the element of ‘accountability’ or ‘answerability’ by obliging public officials to inform and explain their decisions to citizens. This school of thought is of the position that citizens request for information, justifications and explanations for state decisions and actions is empowering (Claasens and Lardies, 2010). Governance failures can be corrected and restored by informed and active citizens that know their rights and expect government to uphold them. However, in order for state and citizen interaction to be empowering it is dependent on public officials actively informing, explaining and justifying state decisions in comprehensible language (Schedler, 1994).

Pro participatory government literature (Baiocchi, 2001; Shah 2007) maintain that citizen monitoring of project implementation increases efficiency of public service delivery and quality of service, enhancing access to services for the poor thereby improving well-being due to better access and quality of services. Local participatory institutions encourage citizens to engage with local officials on public policy through the use of social accountability tools such as planning and budget evaluation, expenditure tracking, monitoring of service delivery and public integrity in civil service as a way of improving local government performance (Claasens and Lardies, 2010). Here citizens are “acting simultaneously as conscientious consumers and vigilant observers” to maintain the high standards for the products to be delivered (Goetz and Jenkins, 2001: 372). Deiniger and Mpuga (2004) point out accountability of public servants by citizens produces effective policy outcomes, performance and pro-active decision making.

The benefits of participatory governance are dependent on citizens willingness and ability to attend and engage in public meetings. Grindle and Thomas (2001) and Hendriks (2010) argue that in order to maintain public interest in participation meetings, citizens must see a link between their input in public meetings and what happens on the ground. Simply organising opportunities for participation is not enough. To maintain public interest and engagement in participation initiatives there must be meaningful engagement.

According to section 137 of Kenya’s 2012 *PFM Act*, County governments should facilitate “meaningful consultation” over the budget process by County inhabitants. Section 105 of the *County Government Act* (2012) maintains that County governments are responsible for ensuring “meaningful citizen engagement” in planning processes. The standard for effective and meaningful participation or involvement in public policy as set out in participation literature state that for participation to be truly effective and meaningful, citizens must have

accurate and accessible information on resource performance and service delivery, which allows them to engage in robust debate, negotiation and deliberation regarding public debate on local budgeting and planning (Kullenburg and Porter, 2001; Mansuri and Rao, 2012; Sheely, 2015).

Deliberative democracy theorists argue that participation is a meaningless and empty concept if it is not accompanied with democracy, inclusiveness, access to information and deliberation (Gutmann and Thomson, 2002; Holmes and Scoones, 2000; Pimbert and Wakeford, 2001). A publication by Pimbert and Wakeford (2001) focuses on participatory methods and approaches that enhance deliberative democracy and citizen empowerment. Pimbert and Wakeford (2001) list key features for deliberative participatory approaches and label them as “Deliberative Inclusive Processes” (DIPs). Figure 2 below is a modified version compiling a list of key features as identified by Pimbert and Wakeford’s (2001) comprehensive discussion of DIPs. Figure 2 below is modified in the sense that it is a mere summary of key features for effective, meaningful and inclusive participation or deliberation extracted from an article by deliberative theorists Pimbert and Wakeford (2001) and presented in the form of diagram. These features were applied in the analysis of experiences and efficacy of this case study’s design and implementation of citizen participation spaces, legislation, policies and methods:

Figure 2: A summary of key features of deliberative and inclusionary processes

Definition of Meaningful participation	<p>Careful consideration, debate and discussion of reasons for and against</p> <p>Active involvement of multiple social actors and usually emphasises the participation of previously excluded citizens.</p>
	<p>Social interaction in the form of face-to-face meetings between those involved.</p> <p>Multiple positions are given equal opportunity and respect</p> <p>Discussion and presentation of positions and perspectives is based on information and evidence.</p>
	<p>Negotiations, public reasoning and dialogue aimed at mutual understanding takes place, even if consensus is not being sought</p> <p>Unhurried, reflective and reasonably open-ended discussion is required.</p> <p>Citizens have accurate and accessible information on resource performance and service delivery</p>

Source: Modified from Pimbert and Wakeford (2001).

However, not all literature on participatory government is positive, there are some challenges such as economic inequality and the absence of interest can hamper civic engagement by community members. According to Bordhan et al (2007: 1843-1844) “the propensity of individuals to cooperate in collective action or to contribute to public goods and services is negatively related to inequality.” This means that the capacity for citizens to engage in participatory governance can be constrained by a lack of economic resources and access to information and low levels of education among citizens and civil society organisations (CSOs). It is also not to be assumed that citizens want to participate. Citizens interest in participation depends on the perceived costs and benefits of participation. Costs could include time and transportation costs, the perceived risk of challenging public officials weighed against possible benefits such as transfer of real decision-making power over public resources and improved access to public services (Goetz and Gaventa, 2001; Osta et al., 1997). There are very few studies conducted which explain whether inequality contributes to low levels of collective action of community members and NGOs/CSOs in participatory governance mechanisms (Speer, 2012).

Evidence on the impact on participatory governance responsiveness is not conclusive. There are some scholars that argue that participatory governance does not have an effect on citizen empowerment, equity, government responsiveness or on improved delivery of services and well-being. According to Brautigam (2004), participatory budgeting and planning is neither necessary nor sufficient for making government spending more pro poor. Brautigam (2004) highlighted that although citizens were involved or participated, it was not uncommon that decisions were most likely to remain unchanged. Shatkin (2000) study in the Philippines, revealed that influence on government decisions by citizens had not increased and degree of responsiveness had not changed. Francis and James (2003) found that in Uganda decisions on resource allocation did not reflect the needs of villagers in spite of having been planned with them. Another Ugandan study by Porter and Onyoch-Olaa (2000) showed how bottom up planning was necessary but not sufficient for improving quality of service delivery.

It is also acknowledged by most studies done on participatory governance that a legal framework for participatory governance is a necessary but insufficient means of guaranteeing effective participation (Speer, 2012). A number of studies have investigated the necessary political; socio-economic conditions, design principles needed for effective implementation and functioning of participatory governance mechanisms in practice (Barrientos, 2007; Goetz

and Gaventa 2001; McGee et al, 2003; Reid, 2005; Russell-Einhorn, 2007; Smith, 2004). These studies reveal and confirm that participatory governance works best when civil society actors are willing to engage on matters of public policy and have the capabilities to contribute to public policy and the management of state affairs.

Several studies have shown the importance of a well organised and effective civil society for enforcing participatory governance arrangements and achieving results (Arritzer, 2002; Brinkerhoff et al., 2007; Fox, 2002, Heller, 2001). Devas and Grant's (2003) study on citizen participation in local decision making in Kenya identified the important role of civil society in engaging with local government. Civil society were an important source which helped set priorities, provide technical capacity, labour and possible solutions. Despite these claims, there is no guarantee that the interests of the poor are automatically represented. Beall (2001) argues that by only viewing organisations in a positive light would disregard how formal organisations can play a part to reinforce inequalities and social exclusion. Furthermore, the capacity and willingness of civil society to engage with local government depends on the experience, nature and history of the organisation. However, Hyden et al (2004) and Gaventa (2007) caution that civil society participation and voice does not always translate into change of status quo or an increase in influence of citizens.

Public officials need to be interested in participatory governance and they need to be able to implement citizen input (Evans, 2004; Goldfrank, 2007). Porter and Onyach-Oloo (2001) found that although local government was making significant efforts to draw people into decision making processes, final decisions were made by technocrats who were more influenced by other bureaucratic factors such as resource availability and had less to do with wider public participation discussions. Evans (2004) and Goldfrank (2007) argue that the willingness of both national and local government to concede and share power; their ability to become flexible with decision making power as well as their administrative capacity to manage and implement citizen participation are 'indispensable' for fruitful participatory governance outcomes.

According to Evans (2004), the differences in success levels of participation can be explained by differences in these two key actors – civil society and public officials. Other conditions found to influence the successful or unsuccessful participatory governance mechanisms include the following: i) the institutional set up of participatory governance ii) the electoral and party system iii) the degree of political decentralisation iv) the relationship between the Executive

and the legislature v) government resource endowments, and vi) the size of the jurisdiction between countries, across regions, within countries. These are potential conditions that cause differences in the outcomes/effectiveness of participatory governance mechanisms (Brinkerhoff and Azafar, 2006; Goldfrank, 2007; 2011; McNulty 2011; Wampler and McNulty, 2011).

However, Andersson and Van Laerhaven (2007) comparative studies of participatory governance in Latin America showed that an active civil society as well as a government which enforces and supports participatory governance had more impact on outcomes than any other political and economic variables. This highlights the significance of an active, well organised civil society and the importance of a willing and capable government. Furthermore, research on conditions necessary for participatory governance is only emerging and has not yet generated conclusive findings on whether and how these conditions influence the functioning of participatory governance (Goldfrank, 2007; McGee et al, 2003; Speer, 2012). A lot of studies on participatory governance have been isolated case studies, focused on developing countries in Latin America and Asia such as Brazil, India and the Philippines. There is a need for more comparative research on participatory governance mechanisms in developing countries in Africa which look at the ability and willingness of community members, civil society and/or government officials to participate.

Gathering research evidence on participatory governance in African context is essential given that current literature on participatory governance is mostly based on normative perspectives, subjective opinions and assumptions. This is problematic given that normative perspectives are based on subjective opinions and assumptions influenced by one's socio-economic, cultural or political context. This in turn makes assumptions regarding the benefits and importance of participatory governance questionable given that normative perspectives are provided by authors from developed countries to implement in a developing country context.

There are good theoretical arguments for a positive impact of participatory governance on government responsiveness, service quality, and well-being however currently the claim that participatory governance brings about public policy benefits such as citizen empowerment, inclusive citizen voice in public policy and quality of public service provision is not yet supported conclusively by empirical evidence. According to Speer (2012) there is a need for

more detailed theoretical models of the impact of citizen participation and more robust empirical evidence from theory guided case studies and more comparative analyses.

2.4.1 Critical analysis of participation in public policy and decision making

Participation literature has mostly focused on community involvement in development projects in order to increase project or policy efficiency (Rigon, 2014). However, the concept is being linked to other concepts such as citizenship, citizen rights and the democratic governance agenda (Gaventa, 2007; Hendriks, 2010; Hyden et al., 2004). Public participation can be understood in terms of economic, political or social participation. Economic participation refers to collective bargaining for livelihood and distribution of income through the form of co-operatives or unions. Political participation refers to interaction between political representatives and the electorate through voting or lobbying by groups or individuals to influence policy makers. It can also include group action such as protests to make direct demands on government. Social participation is understood in terms of people centred development. People collectively come together to tackle local problems. It infers self-sufficiency and self-help (Grant, 2002).

Citizen participation borrows from concepts such as political participation and community participation in projects and views participation as a right for people to design and define their own development as well as their right to influence decisions that affect them (Fung, 2006; Shah, 2007; Speer, 2012). Citizen participation is based on the premise of participatory democracy which acknowledges that “elections will always be insufficient mechanism for citizen voice and accountability” (Brinkerhoff, 2007: 192). It also implies the right for citizens to hold elected representatives accountable for their performance and their right to directly participate in decision making in policy and governance (Ackerman, 2004; Baud and Nainan, 2008; Rakodi, 2001). Citizen participation is understood as having potential to improve government responsiveness and influencing decisions over spending and policy (Goetz and Jenkins, 2001; Speer, 2012).

Participation may be expertly driven from the top or from below by citizens or facilitated by a third party (Grant, 2002). Participation can be distinguished as a means to an end or as an end in itself. Participation as an end is a process which enables citizens to influence the outcomes of public policies and development projections (Ackerman, 2004; Gaventa, 2007; Baud and Nainan, 2008). The philosophical difference between the two is that people are given the power

which enables and entitles them to control the development process. According to Grant (2002) and Fung and Wright (2003) governments perceive citizen participation generally as a method to achieve greater efficiency and less about permitting citizen control over decision making and development processes.

Decentralisation is said to increase more opportunity for participation in public policy which results in more efficient resource use and allocation of resources which in turn facilitates a process by which local needs and priorities are established (Fung and Wright, 2001; Ribot, 2007). There are however political challenges to devolving decision making such as a lack of support from central government and local bureaucrats to devolve power as well as strong interests that want to maintain the status quo (De Gramont, 2014; Devas and Grant, 2003). In addition, resource scarcity may inhibit decentralised participatory local government (Devas and Grant, 2003).

Additional challenges to local participatory governance are highlighted by Goulet's (1989) analysis of public participation who found that when decision-making and resources are kept under tight control the potential for participation is constrained due to limited influence of citizen input. Furthermore, when there is no real transfer of decision-making power, people passively participate in other people's agendas (Platteau, 2004; Rigon, 2014; Sheely, 2015). The other's agenda does not necessarily only refer to the state's agenda. Guijt and Shah (1998) identify a complex set of community differences such as age, economics, religion, caste, ethnicity, gender which all create complex power dynamics which enable some community members greater influence and control over decision-making and decision-makers. Participation can be far from democratic due to powerful individuals imposing decisions on other members. Power is truly devolved to local levels if participation enables local people to set their own agenda.

Efforts by local governments towards advancing citizen participation may not be targeted at the poor. Porter and Onyoch-Olaa (2001) study found that it was easier for local government officials and policy makers to access more visible and more vocal community elites than engage with the communities' poorest. Moore and Putzel (2000) have also argued that decentralisation may aim to be but may not be necessarily be pro-poor due to elite capture and the lack of commitment by the State to implement decentralisation and participation mechanisms and policies. In order for decentralisation mechanisms to be truly pro-poor and

inclusive, such mechanisms need to include participatory planning, citizen education and awareness building initiatives (Rigon, 2015; Sheely, 2015). Furthermore, these mechanisms need to make more specific efforts to safe guard against elite capture by ensuring representation through inserting representative quotas for marginalised and vulnerable groups in participation initiatives. Development practitioners employ methods of mobilization as well as information campaigns to encourage citizens to participate in local government as a way of preventing elite capture of policy making processes. There is however, insufficient evidence concerning the effectiveness of such information campaigns and mobilization methods by local participatory institutions for planning purposes. (Sheely, 2015).

The benefits of decentralisation such as efficient resource use and prioritisation of local needs requires local citizens to be aware as well as to understand policy and resource use choices. This requires transparent decision making and access to information. The local media as well as the use of indigenous languages can be critical tools for local government to use in making information accessible to the general public (Muriu, 2014; Van Rensburg, 2012). Local radio is often a key source in providing information and answers to questions to literate and illiterate, rich and poor citizens (Muriu et al., 2014). The local media particularly community newspapers and radio, play an important role in making information accessible to the general public (Rigon, 2015).

According to Grant (2002: 12) “public participation is key to informed public participation.” Within government too, information is essential for effective planning. Information enables governments and communities to prioritise according to available resources. However, information can be of little value if it is of poor quality, irrelevant or incomprehensive. The capacity to effectively participate in budgeting and planning is further weakened by low education and literacy levels amongst citizens (Grant, 2002). Financial related information needs to be relayed in formats accessible and understandable to the average citizen. This often requires translation of documents into indigenous languages as well as the use of visual techniques. The time, capacity and resource costs of developing these practices impacts on the quality of the participatory processes (Wilikilagi, 2009). Grant (2002: 10) argues that “these practices are often unfamiliar to newly decentralised autonomous local governments.” Capacity issues can undermine government’s attempts with participatory initiatives as a result of insufficient resources and expertise.

The internet's networking capabilities is creating economical opportunities for governments to engage all its citizens in democratic processes (Van Rensburg, 2012). Social networks have expanded the communication channels between government and fellow citizens. It has also contributed towards creating an environment of equitable citizen influence by allowing all people at all levels in society to form part of a vibrant debate and discussion regarding policymaking processes (Van Rensburg, 2012). Furthermore, the use of citizen education programmes can be used to capacitate citizens to understand information contained in public policy documents to facilitate an inclusive process where all citizens are able to engage in public policy (Kullenburg and Porter, 2001; Mansuri and Rao, 2012).

It cannot be assumed that such participatory initiatives when implemented are automatically inclusive. The state needs to be aware and acknowledge the power dynamics within communities in order to facilitate more inclusive participation initiatives. Recent literature on citizenship has indicated the importance of analysing invited spaces based on who is invited by whom and how, which stakeholders have been invited and for what purpose as well the ultimate question of representation and participation in whose name? (Fotel et al., 2008; Hendriks, 2010; Lavallo et al., 2005). Fotel et al. (2008) argues that the problem with representation is that if representatives receive rigidly defined mandates it leaves very little space for developing and responding to new initiatives and very little flexibility and reflection of the level of representation as well as on the identification of ideas being supported. When it comes to representation, scholars are also concerned with what constitutes legitimate representation. Sorenson and Torfing (2005) argue that legitimacy is enhanced when representatives present complex, diverse and sometimes conflicting interests and preferences and not singular monotonous interests of particular members.

2.4.2 The politics of power in formal participation spaces

Michel Foucault's (1976) notion of the 'polyvalence' describes how the same concept can be used in ways that achieve different results. In the same way, the concepts such as participation and deliberation can produce different results depending on how they are used. The term participation is often used by a diverse number of people who give it very different meanings and use it for different purposes (Hussein, 1995; Kelly, 2001; Nelson and Wright, 1995). The term participation is therefore an ideologically contested concept because of the wide-ranging views on what participation is, whom is to participate, how it is to unfold and what it is expected from the participation process (Agarwal, 2001; Pelling, 1998). Often what participation means

and is envisioned by organised groups such as civil society and/or Residents Associations is different compared to the participation vision model set up by the ruling elite (Pelling, 1998).

Foucault (1977: 174) also argued that “power is a force which can be found everywhere and dispersed throughout the complex socio-economic networks, practices, and relationships that positions and justifies a few in powerful dominate positions in relation to others.” If power is everywhere, if it permeates and constitutes all social relations, then even democratic, emancipating discourses and practices contain powerful forces of domination. If power is everywhere it also means tools, spaces, state institutions, mechanisms and techniques of participation are not neutral. They can be used to advance the perspectives, values, and priorities of dominant groups as well as influence what state policies or information or decisions are produced (Cornwall, 2004; Cooke and Kothari, 2001; Mohan, 2001).

Participatory approaches (Cornwall, 2004; Gaventa, 2004; Cooke and Kothari, 2001; Mohan, 2001) argue that public deliberation or participating in invited or institutionalized spaces circumvents power relations by giving the marginalized a voice through enabling their engagement in the design, implementation, and outcomes of policies and development programs. Public participation is said to build people’s skills to analyse and transform their lives and thus provide a useful means to enable empowerment. Amid the largely positive proponents are scholars who are highly sceptical and critical of citizen participation and its “empowerment” benefits. Scholars such as Cooke and Kothari (2001) argue forcefully that the term participation is being mobilized to rubber stamp and/or legitimize a wide variety of political agendas. This is because institutionalized or invited spaces of participation can be used to entrench and sustain and not necessarily overcome power relations.

Cornwall (2004: 4) argues that institutionalized spaces of participation have the potential to transform power relations, but formal spaces of participation can be “clamped shut, voided of meaning, or depopulated as people turn their attention elsewhere.” The potential of invited spaces to actually be realized and translated into actual changes in power and governance is contingent on a range of factors. One factor is the ‘conquered spaces’ factor as opposed to the ‘provided spaces’ factor. The difference is that the former exists as a result of successful advocacy and demands for change whilst the latter are put in place at the behest of donors or development partners. These formal spaces are therefore largely donor imposed rather than as a result of organic institutional and societal reform (Cornwall, 2004). Thus, Mosse (1994)

describes formal spaces of participation and formal public events and meetings as ‘paradoxical arenas’ and ‘risky spaces’ in which established power relations might be either challenged or reaffirmed. It also brings into question the extent to which the provided spaces can be said to be truly democratic spaces if donor imposed.

Other factors which influence the outcomes of invited spaces are embedded in the particularities of context. Histories of governance and experiences of rule influence attitudes and perceptions of citizens towards public officials and public policies. The ways in which citizens perceive and engage with the political, the meanings and expectations are attached to i) the ruling elite or state processes of decision making ii) the way in which dissent or differences are dealt with in any given space for participation. Both these historical and contextual factors also influence reform outcomes (Cornwall, 2004).

According to research the success of invited spaces is also contingent on the ruling or governing party support of popular participation; the level of popular mobilisation or an active and engaged civil society or citizenry; and a sufficiently resourced, well-co-ordinated state bureaucracy (Fung and Wright, 2003; Gaventa, 2004; Heller, 2001). All these factors are said to “shape expectations, relationships and dynamics at the interface with the state resulting in different meanings and outcomes to the invited spaces” (Cornwall, 2004: 4). Hendriks (2010) and Muriu (2012) study of citizen participation in Kenya through LASDAPs revealed an ‘emptying out’ and a weakening of citizen participation spaces as participation numbers dwindled over time due to lack of information, a lack of feedback and resources to implement desired projects; a lack of understanding of the functioning of these participation spaces and institutions or governance in general; elite capture; and the poor attitude of public officials and councillors towards direct participation. All these previous experiences and historical factors will shape the expectations, relationships, dynamics of interactions between citizens and local officials influencing the experiences and outcomes of the newly established participatory spaces.

2.4.3 Collective mobilization and reclaiming the power of participation

Kenya is a highly unequal society ravaged with continued poverty pre and post-independence. This situation raises questions about the role or use of state power as expressed through state policy in perpetuating unequal power and economic relationships for the benefit of capitalists and the ruling elite (Alexander et al., 2013; Jessop, 2008). One of the ways in which people

organise themselves is through social groupings which are mostly organised along class lines with the aim of achieving or protecting their interests (Przeworski, 1997). The powerful wealthy and ruling elite organise to maintain status quo and the poor and powerless masses organise for change in economic, political conditions which promote equality and prosperity for all (Alexander et al., 2013). People organise themselves to participate in democratic processes because they are attracted to the possibility that collective mobilization and participation could result in outcomes that are beneficial to the poor by giving effective control over Executive power, state resources and decision-making processes to the masses (Przeworski, 1997).

Residents Associations are examples of how communities choose to organise themselves to influence state power and policies in relation to their interests. Social capital theorist (Putnam, 2000) defines this as *Bonding* social capital which he refers to social networks between homogenous groups. According to Putnam (2000) Bonding social capital can be valuable for oppressed and marginalized members of the society to band together in groups and networks and support their collective needs. These organised groups are also born out of frustration and loss of confidence in government capabilities to deliver on its mandate and to work in the interest of the people. As such citizen led or community participation in governance matters is about re-imagining, re-claiming and re-defining participation. It is about framing participation in accordance with terms and standards that are satisfactory to the citizens. It is also about framing a participation model that genuinely empowers citizens and meets citizens service delivery goals and objectives.

Community participation theorists note that the concept has evolved from self-help to setting up of social and economic structures or networks for more responsive local services. Community participation does not only imply self-help, it is about people reclaiming and having power and control through social capital or social networks (Olima, 2013). The power of community participation is drawn from a collective which always has advantage over a single individual particularly in poor communities who are often powerless to influence public policy due to their low economic status. The power of community also lies in a group of people with shared vision or interests and living within close proximity working towards a common goal (Fukuyama, 1995). The power also lies in the communities' abilities to set their own goals.

Residents Associations are therefore structured in such a way that harnesses the power of community by creating membership structures. The concept of social capital clearly describes how the relationships of trust and cooperation that exist between citizens facilitates collective action to resolve problems (Brehm and Rahn, 1997). The value of group membership not only lies in the social relationships and shared values but also in the economic benefit or financial assets generated by the network (Nahapiet and Goshal, 1998; Olima, 2013).

Ndekha et al. (2003: 217) defines public participation as “a social process whereby specific groups with shared needs living in a defined geographic area actively pursue identification of their needs, take decisions and establish mechanisms to meet these needs.” According to social capital theorists the purpose of setting up associations, community initiatives or organised groups is to garner power and resources from social relations for productive benefits (Fukuyama, 1995; Putnam, 1993). Participation is therefore more than just self-help, it is about power and control. Organised groups such as civil society organisations or Residents Associations establish platforms, create opportunities and capabilities for citizens to exercise power, influence and control over decisions that affect them through involving the local population in advocacy and participation around governance matters and public policies.

For organised groups such as CSOs and Residents Associations, participation is about establishing power through processes where by development projects are legitimized and approved by citizens themselves from the moment of conception, planning right through to implementation (Ackerman, 2004; Baud and Nainan, 2008; Gaventa, 2007). Emanating from poor performance, mismanagement and corruption by LAs, Kenya has been faced with many challenges at the local level regarding planning, development and management and urban areas have been affected the hardest (Olima, 2013).

Nairobi is the largest populated urban area with approximately 3 million residents of which 70% live in informal areas. It is amongst the largest cities in Africa and the unemployment rate stands at 22% (KNBS, 2013). Nairobi also has problem of decaying infrastructure limiting government’s ability to provide its residents adequate water and sanitation. Furthermore, due to limited resources and highly centralised government system, council operations were heavily politicised and local government election and participation were directed towards maintaining political alliances than about residents’ interests (Mitullah et al., 2004). The rot in Nairobi and

other areas is a result of ineptitude and negligence of LAs (Olima, 2013) as a result Residents Associations have proliferated in Kenya particularly in urban areas.

Since the 1990s when local government system began to collapse Nairobi residents have increasingly and continuously to this day organise themselves through Residents Associations, community-based organisations and civil society organisations in both poor and affluent areas as a way of collectively regaining spatial, social, political, economic power over local resources and policies. It is also a way of meeting the ever-increasing neglected needs of the population (Olima, 2013). Organised groups strategically engage with local government in both adversarial and co-operative ways using various strategies of which participating in invited spaces is one mechanism.

2.5 Conclusion

This chapter has demonstrated how decentralisation, participation and the link between the two has been positioned at the centre of good governance and development agendas. This chapter has reflected on decentralisation studies which have demonstrated that the willingness of local government to concede; their ability to become flexible with decision making power as well as their administrative capacity to implement and manage local participatory governance are indispensable for successful democratic decentralisation. Democratic decentralisation mechanisms and institutions also require effective participation strategies and an environment that equips citizens with accurate and accessible information on resource performance and service delivery so that citizens can meaningfully engage in a public debate on local budgeting and planning. This chapter has developed a general framework using key features of democratic decentralisation theory and Pimbert and Wakeford's (2001) Deliberative Inclusive Processes (DIPs). Both these frameworks allow this case study's recently devolved local government's participatory approaches perspectives, problems, views and opportunities to be evaluated and understood. It also highlighted the politics of power and how then can impact participatory structures and outcomes. The following chapter will seek to contextualize decentralisation and citizen participation in decision making and local government processes discourse within Kenya

Chapter 3: The road to decentralised and participatory governance: The Kenyan experience

3.1 Introduction

Reforms do not occur in a vacuum. They are situated in context and their successful implementation are not only influenced by financial and human technical capacities but also by local history, politics and tradition (Porter and Onyach-Olaa, 2001). It is crucial to fully appreciate and understand current experiences with governance reforms by examining the historical and political context which gave rise to democratic decentralisation reform processes. This chapter will examine the history and political trajectory which led to the emergence of current decentralisation and participatory governance reforms. In reflecting on Kenya's history, the chapter will also critically assess the political project and objectives behind the latest decentralisation and citizen participation reforms. It will also reveal how the legacies of the past could affect positively and/or negatively the establishment and implementation of today's democratic decentralisation institutions, policies and mechanisms.

3.2 A historical overview of governance reforms in post-colonial Kenya: From 1963 to 2010

The previous sections have dealt with the theoretical debates and contributions surrounding decentralised participatory governance. This section will contextualize these debates by tracing, describing and analysing the trajectory of Kenya's governance reforms in the post-colonial era from independence until the adoption of a new Constitution in 2010 which ushered a new era of democratic decentralised governance. The historical overview will also analyse how and why decentralisation and participation reforms were adopted and took the form that they did as a result of political, economic and other contextual characteristics over time. It will also look at the role of internal and external context plays in influencing the outcomes of Kenya's newly established participatory local government agenda.

3.2.1 The first wave of governance reforms

Public sector and public participation reforms in Kenya have been a key part of policy strategies since the late 1990s but the reform process has been fraught with many challenges. Anti-centralisation movements emerged in Kenya in the 1990s due to a growing civil society and donor presence in Kenya (Rocaboy et al., 2013). Up until then, Kenyatta's centralisation policies between 1963 and late 1980s remained largely unchallenged. Kenya adopted a federal Constitution known as *Majimbo* in 1963 soon after independence but maintained the local

government structures known as local authorities (LA's) inherited from the colonial period (Bourmaud, 1998). The LA system under colonial rule consisted of municipal councils which governed in urban areas and County councils which governed in rural areas. LAs during the colonial period had considerable responsibilities and autonomy such as creation of employment, levy and collecting a range of local taxes, setting own tariffs and licence fees (Bourmaud, 1998).

During the colonial period, LAs had relative autonomy in their decision making and delivered a wide range of services effectively. The first five years soon after Kenya gained independence (between 1963-1968) saw LAs being stripped of most of their power, resources, responsibilities, roles and governance structures became highly centralised. Kenya's *Majimbo* system consisted of seven semi federal provincial regions, each with a regional assembly and an administration. This was despite the fact that the national economic situation was not at the time capable of supporting a proliferation of governance bodies (Ojwang, 2001).

According to Bourmaud (1988) during the post-independence era, the Kenyatta administration was devoted to setting up control from the centre while the local level was not a political priority. A significant number of changes were made to the Constitution particularly after 1964. Since the 1970's power was increasingly consolidated in the hands of the Executive (Bourmaud, 1988). The result was that by 1970, Kenya no longer had a Westminster Model Constitution - founded on multi-party-ism and by the 1980s, the overall governance system was run from the centre. As a result, LAs therefore became highly politicised and contentious spaces. In 1982, Kenya had become a one-party state meaning only one political party existed and the formation of other political parties was forbidden. Parliament consisted of a single chamber in the legislative assembly. Independent institutions and agencies were scaled down and their powers significantly reduced (Bourmaud, 1988). Thereafter Kenya's history was marked by violent conflict and an attempted coup in a struggle against constricted political activity and thus begun the campaign for civil and political rights and the 'second liberation' movement (Ojwang, 2001).

The late 1990s campaign to decentralise, democratise and expand the political system was geared towards improving public sector efficiency and public participation. The multi-party and decentralisation movement was driven by different factors – political, economic and social (Devas and Grant, 2003). In the case of Ghana, Kenya and Uganda, decentralisation reforms

in the 1990s were driven by a national reconstruction agenda which to an extent had been mainly driven by civil society organisations supported by donor agencies. The first step towards a decentralised and democratic political system was to re-introduce a multi-party system in the Constitution. The one-party system stifled debate and multi-stakeholder participation in public policy. This in turn encouraged civil society demands for greater transparency and participation regarding the use of public resources as well as greater demands for delivery of improved public services (Devas and Grant, 2003). Among the benefits of decentralising responsibilities for service delivery to local governments is inclusive participatory governance processes with public policy decisions reflecting the needs and priorities of the most vulnerable (Speer, 2012).

3.2.2 The second wave of governance reforms

Pressure from CSOs and donors resulted in the *Kenyan Local Government Reform Programme* (KLGRP) in 1998. The KLGRP was established in 1998 to provide the necessary financial and technical support to revamp local government. National spending on local government had dropped from 3.22% in 1969/70 to 1.22% in 1999/2000 (Rocaboy et al., 2013). In the late 1990's LAs were performing poorly in terms of local service delivery, they had huge debt and suffered from gross corruption and mismanagement. The 1995 *Omamo Commission* report on the plight of local authorities in Kenya established that most of the LAs “had exaggerated personnel numbers and were spending up to 70 per cent of their budgets on personnel” (Republic of Kenya, 1995: 25).

The KLGRP became the driving force pushing local government reforms for good governance, efficient service delivery and local economic development. The 1998 KLGRP programme established and tested reform policies, mechanisms and capacities for LAs to use to improve governance and effective and efficient service delivery as well as to foster citizen participation in local government affairs (Rocaboy et al., 2013). Thus, began the second wave of reforms promoting budgetary and fiscal decentralisation in the late 1990s. The only concessions made regarding these decentralisation reforms was making some resources available directly to the LAs through introducing the Local Authority Transfer Fund (LATFs) in late 1999 (Rocaboy et al., 2013). Since its introduction and until the LA system was scrapped in 2010, LAs received LATF grant allocations from national government amounting to 5% of income tax receipts which is meant to supplement the financing of services and facilities they are required to provide under the Local Government Act (Rocaboy et al., 2013).

Local Authority Service Delivery Plans (LASDAPs) were introduced in 2003 soon after LATFs were established. As part of reforming LAs, LASDAP was introduced to ensure that citizens residing in each LA's jurisdiction participated in decision making, implementation and monitoring of service delivery projects funded by LATF (Grant and Devas, 2003). LASDAPs were created to support the decentralisation of some local government function and resources (Grant and Devas, 2003). Up until then local governments in Kenya had only offered marginal opportunities for citizen participation or accountability through the LATFs. Citizen participation in LASDAPs was one of the central conditions to receiving LATF resources. However, there was very little monitoring and accountability from central government with regards to the implementation of citizen participation attached to the LATF. The main purpose of LASDAP was to encourage citizens to participate more fully in decision making processes through public meetings (Grant and Devas, 2003). LASDAPs made public consultation by LAs a requirement, allowing for further transparency and availability of useful information for citizens and CSOs to hold local government accountable and to participate in public processes (Grant and Devas, 2003). LASDAPs prioritised and distributed limited funds with guidance and involvement of local citizens for the first time since independence.

The citizen participation process for LASDAPs entailed three stages of participation. The first stage saw LAs holding consultation meetings with community members to identify priority projects through majority vote (Centre for Devolution, 2015). LASDAP guidelines maintained that information be shared at the consultation meetings such as socio-economic data; stakeholder analysis and status reports from previous LASDAP meetings but only status reports were sometimes shared (Centre for Devolution, 2015). The second stage was the consensus meetings with just the representatives selected at consultation meetings to decide on the final projects to be adopted but final decisions on projects could be influenced by local councillors, sometimes replacing those from citizens. Then the third and final stage of participation included a project committee which would monitor the implementation of the selected project together with community members (Muriu, 2014). The report by the Kenya Human Rights Commission (KHRC) and Social and Public Accountability Network (SPAN) in 2010 showed that participation levels under LASDAP were at its highest during project identification stage only and males participated more in implementation monitoring and project management whilst women participated more in budgeting and planning.

Findings from the study on the impact of LASDAP by Lubaale et al. (2007) established that LASDAP had “enhanced citizen participation and provided the tools for more equitable and participatory allocation of resources from the LATF” (Lubaale et al 2007: 12). However, the participation was limited to just consultation and very little citizen engagement in terms of implementation and monitoring stages of local service delivery. The study also found that participation was only highest in LAs with small populations, that is, town and County councils. Furthermore, the study neither established the quality of participation nor the type of participants as the LAs did not keep such records. Muriu’s (2012) research indicated that the participation of citizens in LA’s service delivery was limited in space and influence. His study also found that LAs only focused on the first stage of participation which focused on consultations regarding what projects should be implemented and even this was not always binding.

Elected councillors played a big part in influencing the decision making and participation processes during LASDAP. Research shows that influencing decisions for LASDAP projects were often made outside the consultation meetings (Devas and Grant, 2003; Hendriks, 2010; Mwenda, 2010; Muriu, 2012, 2014; Oyugi and Kibua, 2008; Rocaboy et al., 2013). Anecdotal evidence also points to the fact that local elites preferred to engage directly in informal settings with the LA officials some of who were their peers as opposed to attending the consultative meetings (Muriu, 2012, 2014). The LA officials as well as the local elite and councillors had access to more information and used the information for their benefit. The studies listed above also found that the domination of councillors on the LASDAP process has stifled participation and made independent citizen input of little effect with representatives having the final say. Oyugi and Kibua (2008: 229) note that “inadequate participation of stakeholders in LASDAP has created the suspicion that both councillors and council staff are in cahoots to mismanage and misappropriate the funds meant for local development.” The dominance of councillors in the process has been such that they not only decided what projects would be selected but also how much would be spent on them and which contactor would be given the work (Muriu, 2012; Oyugi and Kibua, 2008).

Not all the reviews of LASDAPs were negative. There were some positive outcomes recorded. Since the introduction of LAs between 1999-2006, findings by Syagga and Associates (2007) (commissioned by Ministry of Local Government to review LASDAP) and Oyugi and Kibua (2008) showed that Las increased spending in education, health, water and physical

infrastructure – a shift from previous priorities such as office equipment, vehicles and other LA benefits such as salary increases and perks. Although there is some evidence to suggest the impact of citizen participation in influencing allocation of resources, the studies could not fully isolate other factors and confirm that the change in LA expenditures and patterns were a direct outcome of citizen participation through LASDAP. Some other positive outcomes included a strong emphasis on mobilization efforts around LASDAPs with CSOs and LAs working together through joint mobilization efforts to instil a culture of participation (Centre for Devolution, 2015). Lubaale et al.'s (2007) study also acknowledged that LASDAPs ushered a new era in Kenya towards increasing institutionalization of citizen participation in local decision making and provided lessons for future local government participation and reform initiatives.

To further complicate the system of grant transfers from national government, Community Development Funds (CDFs) to electoral constituencies were also introduced in 2003. Despite the introduction of LATF allocations there were still concerns regarding decisions made about the use of resources and whether they were being used in the interests of the majority of local citizens particularly the poor (Grant and Devas, 2003). CDFs were thus mainly introduced to open up multiple opportunities for participation but with specific focus on introducing a pro-poor agenda. The introduction of CDFs meant that national resources could be channelled directly towards addressing issues that concern particularly the rural poor and bridge the development gap between the various regions in Kenya (Kanjui and Misaro, 2013).

According to the *Community Development Fund Act* of 2003, constituencies received a Constituency Development Fund (CDF) which was approximately 2.5% of national revenue. The purpose of CDFs was to reduce the differences in interregional development and promote the implementation of poverty alleviation projects. Each constituency had to have a Constituency Development Committee (CDC) consisting of an elected representative or an MP of the constituency and fifteen members of the community who must comprise of local councillors, members of a religious body, a member from a local NGO, a young person and at least two women appointed by the MP (Centre for Devolution, 2015; CDF Act, 2003). The CDC was responsible for managing, selecting and implementing projects with the CDFs. The CDC structure was not fully autonomous; decisions and management of funds had to first be approved by a national board which managed CDF funds (Rocaboy, 2013).

Studies on CDFs revealed that not all elected councillors consulted with their constituencies and not all consultations were productive, some were organised poorly, and other consultations were biased or captured by elites (Centre for Devolution Studies, 2015; Grant and Devas, 2003; Kanjui and Misaro, 2013). This resulted in decisions being made with insufficient knowledge of the range of views from citizens. There was also a high rate of incomplete projects by LASDAPs and CDFs due to poor record keeping/documentation and monitoring of contractors by MPs and LAs. There was also the issue of competition between LAs and local MPs over the provision of local public infrastructure. This resulted in very little cooperation and coordination between LAs and CDCs resulting in duplication of projects. The only requirement regarding coordination was that CDCs involved the mayor of the constituency in which the projects would be undertaken (Kanjui and Misaro, 2013).

Most studies of LASDAPs and CDFs in Kenya found that there was no guarantee that the decentralised decision-making or participatory governance reforms ended up being inclusive of the poor despite the existence of participatory mechanisms (Devas and Grant, 2003; Hendriks, 2010; Oyugi and Kibua, 2008; Syagga and Associates, 2007). Participatory reforms were also undermined by poor political skills, overstretched public officials with insufficient resources to manage these forums; local government resistance; weaknesses in accountability – social/vertical accountability as well as a lack of monitoring of LAs and CDCs by national government (Kanjui and Misaro, 2013; Mwenda, 2010; Muriu, 2012, 2014; Rocaboy et al., 2013). Surveys also indicate some dissatisfaction with the impact and the participation processes of both decentralised funds (Centre for Devolution, 2015).

Studies on the benefits of decentralisation programmes have shown mixed results based on decentralisation reforms in the 1980s in Latin America. Crook and Manor (1995) in a study of four states in South Asia and West Africa revealed increased participation, improved performance of government services. The study discovered no clear impact on responsiveness to the poor and to vulnerable groups. Blair's (2000) study on decentralisation in six developing countries showed increased participation and representation but provided little evidence of empowerment particularly in the distribution of resources or benefits more equitably and in a way that reduces poverty.

It is also very important to note that despite the introduction of intergovernmental grants via, LATFs and restoration of LA responsibilities, LAs did not have complete autonomy. Central

government through the Ministry of Local Government still played a supervisory role through the setting of rules that limited LAs freedom to make final decisions or adjustments mid-year when it came to local budgets and plans (Rocaboy et al., 2013). The lack of autonomy by LAs can become problematic when central rules and regulations can be used to control public participation processes and further compromise the influence of citizen participation in public processes. Strict control of local budgets were also abused or taken advantage of by LAs by hiding behind them when pressure mounted from citizens to increase public spending on anti-poverty policies (Rocaboy et al., 2013). The rules in theory are there to limit financial irresponsibility of public officials but they were often used as scapegoats by LAs further undermining participatory governance processes.

Other reasons put forward for Kenya's previous unsuccessful decentralisation reforms are the lack of human and financial capacity and efficiency required to meet functions and responsibilities (Ribot, 2002; Wunsch, 2001). Kenya's past centralisation policies resulted in weak and bankrupt LAs too poor to take on any significant responsibilities (Kanjui and Misaro, 2013). Local Authorities were weakened by the loss of local revenue sources which further diminished their human and financial resource capacity to deliver effective services. This was because the responsibility of collecting local taxes was transferred to the provincial level by the *Transfer of Function Act* of 1970 (Rocaboy et al., 2013). Bad policies and poor management led to gradual weakening of local authorities. According to the Ministry of Local Governance (MoLG, 2013) many LAs were not in a viable position to successfully implement reforms causing local governments to rely on other sources of revenue mostly intergovernmental transfers. The ways in which LAs choose to make use of new instruments of citizen participation and engage with newly decentralised local governments are often influenced by local history, politics, tradition, availability of skills, resources or capacity to implement participatory rules and procedures (Onyach-Olaa, 2003).

Despite the improvements in local government participation and accountability in the early 2000s, the following problems still remained: insufficient financial resources of most local government due to mismanagement, corruption, poor revenue collection and over optimistic budget projections which later did not materialise (Rocaboy et al., 2013). LAs often-lacked sufficient resources to implement projects identified during the public participation process which in turn undermined the people's confidence in the participatory process (Centre for Devolution, 2015; Muriu, 2012). Furthermore, insufficient resources meant that decision

making power remained with officials and politicians who prioritise when, how, who or what will get the limited resources available.

By 2010 there was no radical decentralisation of powers and resources in Kenya to the local government level. There was just a slow process of limited reform of the pre-existing colonial system. A referendum to reform the Constitution in 2005 was rejected. For decades, former President Moi and the ruling party KANU led a campaign to oppose the adoption of a new Constitution in order to maintain the previous governance framework which centralized power largely concentrated in the office of the President (Rocaboy, 2013). Further setbacks to adopting a new Constitution occurred in 2007, as a result of post-election violence. In 2008, Kofi Annan brokered a peace deal for a coalition government between opposition party ODM and ruling party KANU. It was agreed as part of the peace deal, another referendum for a new Constitution would be held.

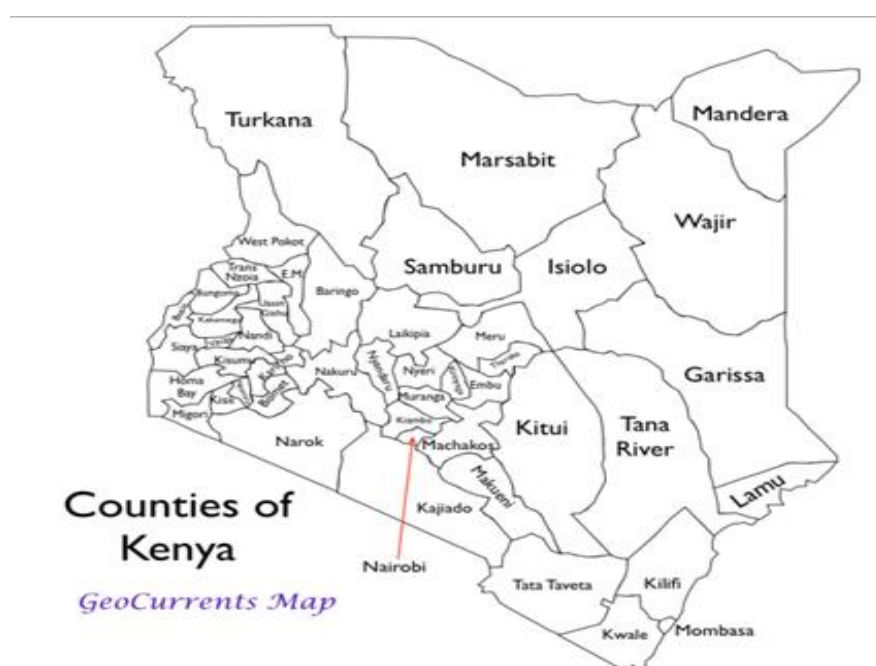
Kenyans overwhelmingly approved a new Constitution designed to decentralise governance and promote local citizen participation and finally a new Constitution was adopted in 2010 with further local government reforms through the amendment of Kenya's *Local Government Act* (LGA). This paved the way for the adoption of the *County Government Act* (CGA) in 2012 replacing the amended 2010 LGA. The decentralisation reforms taken in 1990s helped to provide the LAs with more resources but did not increase their responsibilities or restore their decision-making autonomy. The benefits derived from citizen participation and decentralisation reforms such as changing the distribution of income, priorities, better services, empowerment or other indicators of well-being is dependent on the level of power, autonomy and resources decentralised (Blair, 2000; Brinkerhoff et al., 2007; Crook and Manor, 2000). Thus, the increase of decision-making autonomy and resources at local level was the drive behind further reforms during the new millennium which led to the introduction of the 2006-2011 Strategy for the Revitalization of Public Financial Management System in Kenya (Republic of Kenya, 2012) and eventually devolution.

3.2.3 A new era of decentralised governance and citizen participation: the third wave of decentralisation reforms

Kenya has recently adopted participatory governance reforms to improve the well-being of their people and empower its citizens. Since 2006, the Government of Kenya has been implementing reforms in Public Finance Management (PFM) (Republic of Kenya, 2012). The

new *Constitution of Kenya* (CoK) was adopted on 27 August 2010 after receiving 67% of the referendum. The new CoK created two layers of government – national and county (local) governments and devolved a significant portion of public finances, powers and responsibilities to the County (local) level of government. Kenya now has 47 Counties, each with an elected Governor, an administration and a County assembly responsible for managing public resources and providing social services.

Figure 3: 47 Counties of the Republic of Kenya



Source: *GeoCurrents Maps by Country*, 2015

Kenya’s latest Constitution and legal framework provides a strong and progressive foundation for devolution of power and resources, public consultation and decision making in public policy. In 2012, Kenya’s *PFM Act* was adopted ushering reforms which brought about legal and institutional changes through a new Constitution and *Public Finance Management (PFM) Act*. Kenya’s new Constitution and *PFM Act* reformed fiscal transparency and created opportunities for participation in the budget process, not only for citizens and CSOs but for parliament and public sector agencies. The main aim of the reforms is to promote “an equitable society, public participation in the budget process and transparent financial reporting...” (IMF, 2014: 2). The vision for which the current PFM reforms seeks to achieve is expressed in Chapter 12 of the Constitution which states, “a *Public Finance Management* system that is efficient, effective an equitable for transparency, accountability and improved service

delivery...” (Republic of Kenya, 2012). Both the CoK and *PFM Act* are further supported by the *County Government Act* (CGA) of 2012 (Sections 105; 115) which obligates County governments to facilitate and promote citizen participation in the development of County plans, budgets and policies.

Kenya’s motivations for further Constitutional and governance reforms over the last decade and more recently, have been a product of combined internal and external pressures for change. One motivation was the need to introduce a more democratic, people centred and accountable framework of governance arising from the country’s history of centralised, restrictive and unaccountable governments (Odote, 2013). Among the main reasons for the Kenyan people to secure a new Constitution has been to improve social conditions which are directly connected to the management of public resources (Kiringai, 2006; Runda and Gubbins, 2013). The socio-economic conditions in Kenya and the desire for efficient service delivery, job creation and local economic development also played a key role in the introduction of reforms (Republic of Kenya, 2010).

According to the 2015 Kenya Economic Update published by the World Bank, the economy is projected to have grown by 5% in 2013. Despite achievements in GDP growth, it has yet to impact the lives of ordinary Kenyan’s. Inequality remains high. Kenya has an estimated Gini co-efficient of 39% in rural areas and 49% in urban areas (KNBS,2013). A poverty and inequality survey conducted by Kenya’s National Bureau of Statistics in 2013 revealed that 45% of Kenya’s population live in poverty (Kenya National Bureau of Statistics (KNBS, 2013). Nearly four in ten Kenyan’s still live in poverty (Kenya National Bureau of Statistics (KNBS, 2013).

Kenya’s poverty profile revealed by both the 2005 household survey and 2009 census, revealed strong regional disparities in the distribution of poverty. Poverty levels are highest in the northern and eastern arid areas of the country and the lowest being in the central region (World Bank, 2014). Demographic trends show a high rural to urban migration by the rural poor seeking a better life in urban areas however the poor still remain vulnerable (World Bank, 2014). Access to basic services such as water, sanitation, electricity has increased but the quality of basic services and coverage remains low (World Bank, 2014). The Kenyan government’s poverty reduction strategy is to reduce inequalities through “devolution,

accountable and transparent institutions” (World Bank, 2014: 2). A new Constitution and a new *PFM Act* are the main vehicles by which government will attempt to address spatial inequalities and improve services and the quality of life for ordinary citizens (Republic of Kenya, 2012).

Findings of the Kenya Round 4 (2010) *Afrobarometer* survey² on Kenyan attitudes on democracy and governance revealed that Kenyan citizens rated poorly the performance of local governments due to poor service provision and the inability to engage citizens in local government decision making processes (Afrobarometer, 2010). According to the Kenyan government, promoting public participation in public processes is also a means by which Kenya will attempt to address spatial inequalities, improve services and the economic well-being and quality of life for ordinary citizens (Republic of Kenya, 2012). The joint World Bank and Kenyan government poverty reduction strategy is “devolution, accountable and transparent institutions, inclusive growth, participation and equitable service delivery of public services” (Randa and Gubbins, 2013; IMF, 2014: 2). Therefore, the critical issues underlying the new Constitutional order are: (i) access to economic and equity in the distribution of economic resources; and (ii) empowerment for a better quality of life. The realisation of the above-mentioned attributes is dependent on the fair allocation of resources and power among the various institutions and relationships between actors in Kenyan society by means of devolution and citizen participation opportunities.

Devolution and citizen participation reforms have thus also been driven by the need to provide opportunities and mechanisms for citizens, particularly young people, to participate using non-violent methods to express their frustrations and concerns relating to public policy. Ndiku (2014) argues that urban conflict in Kenya arises from sensitive topics or issues affecting the majority such as access to resources, job opportunities as well as opportunities to participate in public policy. Research on inequality in Kenya identifies poor institutions and ethnic fragmentation or ‘divisions’ as the major contributors to unequal access to resources and services such as land, housing, education, infrastructural development and access to water. Commenting about inequalities and disparities in Kenya, Karingai (2006) points out that by strengthening participation and institutions in policy-making, the CoK (2010) laid a solid

² The latest Afrobarometer survey to look at at citizen perception/attitudes of local governance participation and service delivery is the 2010, Round 4 Survey

foundation upon which to address economic inequalities, regional disparities and marginalisation. Weak institutions give room to bureaucratic manipulation, and corruption to influence how resources are allocated. Unequal distribution of public spending and political power have been traced to ethnic driven patron client relationships which mostly benefited the Kikuyu and Luo people under the Kenyatta and Moi era (Easterly and Levine, 1997; Kiringai, 2006). These scholars argue that the effects of this ethnic bias can still be felt today and to an extent still exists. Political parties and public officials favour allocation of land, jobs in the public service, economic resources to particular ethnic groups (Dowden, 2010; Ngoju, 2013). Constructive dialogue among communities and between the state have thus been shattered, further fuelling attitudes of suspicion and mistrust (Muriu, 2014).

The deep levels of mistrust, poverty and inequality make it easy for young men to be recruited by terrorist groups or by scrupulous politicians to commit violent acts (Wepundi et al., 2012). Tension is further fuelled by having a mix of ethnic groups with historical grievances against each other living in one area particularly in places such as Nairobi's informal settlements, which is often taken advantage of by politicians (Ngoju, 2013). Ndiku (2014) argues that a failure on the part of government to create equal opportunities for all communities to influence public policy regarding access to national resources and economic power at the local level was a contributing factor to Kenya's previous pre and post 2007 election violence.

Participatory governance reforms have partly been introduced to repair the damage to relationships between communities and the state (Ndiku, 2014; Ngoju, 2013). Kenya's devolution represents a historic shift from top down governance to bottom up governance. Devolution in Kenya has had a huge effect on citizen participation in public policy in terms of providing multiple opportunities in legislation for citizens to participate in public policy like never before. The devolution reforms are aimed at removing ethnic and political bias in resource allocation and making public policy planning more inclusive by increasing accountability, transparency and participation. Therefore, Kenyans have high hopes that devolution and the new public participation opportunities will lead to equal say in policy, fairer sharing of resources and more wide spread development that will improve their lives (KNBS, 2013; Ngoju, 2013).

Under the newly devolved local government frameworks, the Kenyan government introduced new laws that reformed citizen participation in public policy in an attempt to address the local

participatory governance shortcomings of the past. The 2010 CoK and 2012 *PFM Act* have made more information regarding budget processes available to the public, allowing citizens and in particular civil society organizations to engage in significant discussion over sector objectives, strategies and programmes against sector expenditure with government. Opportunities for participation by citizens and civil society in the budget process have been expanded in Kenya's recently adopted Constitution and *PFM Act*. Public hearings and open forums are now an institutional feature of the Kenyan budget process.

The new Constitution and *PFM Act* entrenched a participatory approach to public financial governance in law. Chapter 12 on the Public Finance of the Kenyan Constitution guarantees the right of citizens to participate in the budget process and also to seek input before approving the budget. The *PFM Act* goes into more detail than the Constitution and provides additional opportunities for citizens to input into the budget. Section 25 of the *PFM Act* requires that citizens be consulted before Budget Policy statement/pre –budget statement; Section 36 requires that the Cabinet Secretary of Finance issue guidelines to all national bodies of government laying out how citizens can participate in the budget making process (Republic of Kenya, 2012). Section 137 of the *PFM Act* establishes County Budget and Economic Forums (CBEFs), public participation forums at the local or county level which is made up of public officials, private sector, civil society and other community representatives which facilitates participation by the public in local government plans and budgets. The *PFM Act* also allows for the further development of participatory regulations to give further effect to the participation principles expressed in the Constitution and the *PFM Act* (Republic of Kenya, 2012).

Figure 4: Kenya's Constitution and legal framework providing a strong foundation for public participation

Transparency: Disclosure of information	Participation: Public consultation and decision making	Accountability: Responsiveness and answerability
<ul style="list-style-type: none"> • Clear fiscal reporting and citizen access to timely accurate information on budgets, government programs and results • Legislation: CoK (2010) Arts:35;201;232; CGA (2012) Arts:94,95,96; PFMA (2012) 207 	<ul style="list-style-type: none"> • Public shall be engaged in budget and policy formulation, planning and social service delivery priority setting • Legislation: CoK Arts:174,201,232; CGA Arts: 47,91,99-100;PFMA 125,128,131,137; Urban Areas Act 2011, 21 and 22 	<ul style="list-style-type: none"> • Accountability in financial matters • Independent Commissions to oversee implementation of constitutional provisions and handle citizen complaints • Legislation: CoK Arts:174,201; CGA,89

Source: Centre for Devolution Studies, 2015.

The most significant citizen participation reforms in particular reference to this study are captured in the *County Government Act* of 2012 (Section 115) which obligates County governments “to establish specific structures, mechanisms and guidelines for public participation in County budgets and plans.” County governments are guided by the following public participation provisions outlined in other legislative frameworks captured in section 1.2 of the Introduction chapter.

The successful implementation of Kenya's participatory governance reforms will prove to be challenging given Kenya's history of centralisation, one party politics, past ethnic and political violence, as well as existing socio-economic inequalities. In addition to challenges emanating from the past, Kenya's devolution project faces a new set of challenges. Anne Waiguru, former Cabinet Secretary in the Ministry of Devolution and Planning is quoted as saying.

The Constitutional ‘promise’ of transferring power, responsibilities and resources and delivering a more devolved government that is closer and more responsive to the people, in reality, is still facing considerable constraints. These include, the political and administrative complexity and magnitude of the devolution process, uncoordinated and fragmented approach to capacity building, duplication of capacity building efforts and resources between various

stakeholders and inadequate time and financial resources (Centre for Devolution of Studies, 2015).

3.3 A critical assessment of Kenya's motivation for adopting decentralisation and citizen participation reforms

As already outlined in the preceding sections, the first and primary motivation for Kenya adopting its latest decentralisation and citizen participation reforms was to address issues of poverty and inequality. The second motivation was for purposes of national building, to build social cohesion and social capital between different ethnic groups and between citizens and the state through increasing accountability, transparency and participation in public policy. The third and final reason which this section will explore is the external western and donor pressure which also contributed to the adoption of governance reforms.

Kenya's reform strategy is funded through the *Institutional Reforms and Capacity Building Project* (IRCBP) which is supported by the World Bank's *Poverty Reduction Strategy* (PRS) and other grants provided by the *European Commission, Denmark, Sweden, Norway, Canadian International Development Agency (CIDA)* and others (Republic of Kenya, 2012). The joint World Bank and Kenyan government poverty reduction strategy is aimed at reducing inequalities through World Bank investment in infrastructure development (transport, energy, water, and telecommunications) on the condition that infrastructure development is accompanied with "devolution, accountable and transparent institutions, inclusive growth, participation and equitable service delivery of public services" (IMF, 2014: 2).

Contemporary discourse on participatory governance reforms explored in the previous chapter argues that participatory governance strengthens democracy through the use of deliberative forms of decision making. This discourse maintains that debates, transparency and consultations will lead to better policy outcomes and state decisions (Avritzer, 2002, 2009; Bishop and Davies, 2002); Bucek and Smith, 2000; Weeks, 2000). As a result, citizen participation has been incorporated in reform advice in the design of public policies as well as in monitoring and evaluating government expenditure in developing countries (Speer, 2012).

According to Shivji (2000) these discourses are problematic particularly in understanding governance reforms in Africa. Shivji (2000; 2009) argues that the neo-liberal discourse on governance is silent and oblivious to issues of hegemony, power and agency. He argues that

the discourse of good governance is based on western moral paradigms defining and dictating what is 'good' and 'bad' to third world countries by elite donor communities and international financial institutions. For Shivji (2000), this represents another form of western imperialism used in the post-colonial era, undermining Africa's first struggle for sovereignty and self-determination.

African theorists such as Mafeje (1995) maintain that the institutionalization of governance reforms introduced by African governments through the instigation of 'donor conditions' undermine the right of the people to struggle and conceive of their own institutional reforms as well as set their own priorities. Although donor funded governance reforms have the potential to improve governance they could also undermine democratic governance (Shivji, 2000; 2009). Receiving aid with conditions attached makes it difficult for donor recipient governments to resist pressures from powerfully vested interests to not distribute funding and resources in ways that promote pro poor spending or the interests of citizens (Brautigam and Knack, 2004). Hamilton and Viegi (2009: 196) argue that "creditors respond to whether or not their interests will be defended within the formal structures of a state's representative democracy." This could make it less likely for citizens views and inputs to be influenced and be incorporated in public policy. Furthermore, it prevents governments from being first and foremost accountable to the people but to donors thereby transferring decision making power over state resources in external hands and not the people (Shivji, 2003). Democratic reforms which are not influenced and supported by organic domestic or internal pressures for change are unlikely to bring about sustainable socio-economic development and reform (Shivji, 2000). Furthermore, there is debate as to whether 'good' governance in the form of devolution and civic engagement is the key to addressing poverty and conflict in the third world.

Mafeje (1995) and Shivji (2000; 2009) agree that there is a genuine struggle in Africa for popular power (citizen empowerment), popular participation and popular livelihoods in the equitable distribution of resources. Shivji (2000, 2009) argues that discourse on governance and democracy is ahistorical, apolitical and asocial in construct, only acknowledging the positive and cooperative aspects of governance reforms. The possible outcomes of the development and implementation of reforms is dependent on the global as well as internal social and political context in which participatory governance reforms will be operating in. Context shapes the form and effectiveness of formal or informal mechanisms of accountability in governance but often in unpredictable and complex ways (Claasen and Lardies, 2010). Both

Shivji (2000) and Sen (2004) argue that culture which refers to the beliefs, knowledge, customs, moral, habits and traditions of a people influence their economic behaviour, political participation and their sense of identity or association. The context of Kenya's cultural values, attitudes and identity can play an important role in facilitating or hindering the successful implementation and outcome of the reforms.

Shivji (2000, 2009) and Mafeje (1995) argue that African societies are complex and not homogenous, often made up of institutions and people from various factions and ethnic groups with different political beliefs, ideals, agendas, approaches/solutions to societal problems. The implications of these societal differences on the implementation of participatory governance in Kenya are further complicated by the conflict and violence centred on culture and identity that have been rife. Domestic factors contributing to violent conflict in Kenya include the deep levels of poverty, high unemployment rate among the youths which make it easy for young men to be recruited by terrorist groups or by scrupulous politicians to commit violent acts during elections (Wepundi et al., 2012). The conflict is also entrenched in the ethnic community rivalries around the issue of land underpinned by the political history of Kenya (Ndiku, 2014). Conflict around issues of land and water amongst pastoral communities such as the Pokot, Marakwet and Turkana is rife. Mombasa, Tana Basin and other coastal areas have also experienced conflict associated with land (Ndiku, 2014). The Kenyan government thus has a history of not adequately informing, engaging and involving communities in decisions making processes regarding public resources such as land.

Political parties and public officials have been known to favour allocation of land and public resources to particular ethnic groups particularly the *Kikuyu*, which is the dominant ethnic group in Kenya (Dowden, 2010). Powerful political elites establish support using state resources deepening inequalities and fuelling inter-ethnic rivalry as the political elite's ethnic groups are rewarded with power, authority and state resources (MacArthur, 2008; Mueller, 2008).

Another key issue is that of political elitism and patronage when it comes to public resource allocation. Members of Parliament are seen to perpetuate this problem. In 2013, MPs unilaterally demanded increased salaries and allowances against the advice of the *Salaries and Remuneration Commission* (SRC) (The Guardian, 2010). The attempts to exorbitantly increase

salaries and perks for MPs meant the use of power to determine policies regarding the allocation of limited state resources to benefit the elite few at the expense of the poor populace.

Conflict arises from dialogue concerning sensitive issues affecting the majority such as access to resources, opportunities for livelihoods as well as opportunities to participate in public policy. Tension is further fuelled by having a mixed pot of ethnic groups with historical grievances against each other living in one area - mostly located in large informal settlements in urban areas such as Nairobi or Mombasa. Violent conflict in Kenya has been fanned by communities seeking opportunities to influence public policy regarding access to national resources and economic power at the local level (Odote, 2013). In addition, rural communities and minorities in particular have often not been given a platform to express their voice and where they have been outspoken, they have not been listened to by the state (Ngoju, 2013; Ndiku, 2014). There is a need to grow positive dialogue and communication within and between communities. There is also a need to provide opportunities and mechanisms for citizens in particular, young people, to participate in a constructive and democratic way on issues relating to public policy.

The neo liberal discourse on participatory governance view the reforms in Kenya as key to addressing many of the long-standing issues regarding exclusion from and poor governance of state resources, ethnic divisions in society, poor state-citizen relations, inefficient service delivery and poor local economic development. Alternative theories on governance such as post-colonial theories by scholars such as Shivji (2000, 2009) and Mafeje (1995) point out that institutional governance reforms are not enough. The participatory governance reform agenda must be driven and owned by the people. For governance reforms to be truly effective and sustainable there must be a genuine transfer of power from external and internal elite parties to the people as well as seek to acknowledge and harmonize reforms with Africa's historical, political and cultural context.

Given the recent introduction of participatory governance reforms in Kenya there is very little known regarding the extent to which how effective these Kenyan participatory governance reforms have been in bringing about genuine citizen empowerment, citizen influence in public policy over state resources, improving service delivery quality and promoting dialogue in an ethnically divided nation.

These alternative theories of governance cause one to ask some hard questions. Among such questions is will reforming the country's political and institutional set up build the necessary trust and sufficiently change and address the political and ethnic power dynamics needed to transform governance and genuinely empower citizens? Beyond just establishing new regulations and institutions promoting devolution and participation, have these institutions and reforms adequately addressed socio-economic, cultural and political contextual factors which possibly hinder the successful outcomes of these objectives?

3.3.1 The challenge of reforming institutions, space/context and isomorphic mimicry

The last 10 years has seen increased lending practices by the World Bank to African and third world states for public sector and Public Finance Management (PFM) reform initiatives promoting transparency, accountability and participation in public finances. Andrews (2008) study analysed what these reforms have achieved and what past experiences could indicate for future reforms.

Andrews' 2008 research evaluated PFM systems in 30 countries (of which Kenya was among) and revealed some key insights regarding implementation of PFM reforms in Africa. The study revealed that there is a lot of focus on reforming the budget and planning stages by African governments but there is far less focus and effort on the 'reform space' or the institutional environment under which reforms are taking place. There is also much less focus on reforming budget implementation processes which includes performance monitoring of service delivery by public officials and service providers as well as expenditure tracking of service delivery projects.

Contextual matters are also not taken seriously in reform design. Andrews (2010) study found that a similar PFM model which consisted of international reform products such as stronger laws and processes and strengthening of central entities such as treasuries, budget departments, revenue and procurement agencies was implemented consistently throughout 30 African countries by the World Bank which merely resulted in changes in budget formulation processes only. These reforms are considered to be easy "low hanging fruits" visible to donors and potential investors however this reform approach only seems to be limited in terms of its achievements, delivering only better law and central agencies with very little changes in budget execution.

Implementation of budgets and service delivery projects is a critical component of sustaining citizen participation. Changes encouraging participation in budget processes which are not supported by changes in budget implementation are likely to be unfruitful (Devas and Grant, 2003). The research also finds when it comes to PFM reforms, legislation usually improves but implementation is hardly achieved, “African PFM systems generally suffer from an implementation deficit – laws and processes may be in place but seldom affect actual behaviour” (Andrews, 2010: 2). According to Andrews (2008) this is because the performance of PFM reforms by African countries is influenced by a range of other contextual factors such as economic growth, political stability, reform tenure (length of period in which there is commitment to implementing reforms fosters PFM progress) and colonial heritage.

PEFA is a methodology for assessing public financial management performance. PEFA scores assess the quality of PFM systems against a set of indicators. The average African PEFA scores mostly below international good practice. Andrews et al. (2017) tries to answer many questions pertaining to why there is poor implementation of new laws and systems and why there is a gap between law and what really happens in the day to day reality of PFM practice. Andrews et al. (2017) attributes the failure of reform implementation to the concept of ‘isomorphic mimicry’. Isomorphic mimicry is a term borrowed from science which describes mimicry as a type of camouflage, in which animals gain survival by looking like other animals. The concept of isomorphic mimicry is not new in social sciences, sociologist Meyer et al (1997) spoke of “structural isomorphism” of nation states in the global system. DiMaggio and Powell (1983: 147) also emphasised the use of isomorphism as an approach applied in both private and public sectors as a form of survival explaining “isomorphic mimicry conflates form with function... organisations adopt isomorphism to look like successful organisations to enhance their legitimacy.”

DiMaggio and Powell (1983) identify three different types of isomorphic mimicry: ‘coercive’ – in which external agents force isomorphism on the organisation; ‘normative’ in which organisations wilfully adopt mimicry because it is best practice; and ‘mimetic’ which organisations simply copy other organisation’s practices (DiMaggio and Powell in Andrews et al, 2017). Normative isomorphic mimicry is rife in developing countries because “the global system often with donor agencies as the vector promotes the transplantation of best practices and other global agendas that distort or ignore local challenges” (Evans, 2004: 40). Developing countries are always pursuing reforms to improve performance and agreeing to global agendas

and activities as a strategy for gaining more funding and legitimization by adopting “agenda conforming reforms” (Meyer et al 1997: 47). The countries end up adopting external solutions that are not necessarily socially or politically accepted or practically possible in the context. Apart from the ruling elites, locals have thus very little incentive to pursue and implement externally mandated reforms. Frontline workers end up implementing reforms out of routine compliance and at worst abusing reforms for personal gain instead of acting out of genuine concern for the citizens they serve (Andrews et al., 2017).

Since the 1980s State institutions in developing countries have been required to adopt decentralisation and public sector and public finance reforms in order to receive financial support. The reforms are “intended to constrain corruption, discipline agents and bring a form of formality and legitimacy to the way governments operate” (Larson et al, 2013: 48). This has made it difficult for developing countries to receive external financial assistance without committing to change their government and economic structures.

Andrews et al. (2017) argues that developing countries often adopt new PFM systems, laws and public sector reforms from international best practice global agendas, donor and development agencies such as the World Bank and IMF. These reforms often look impressive but are poorly suited, require resources and capacities which the context lacks and are often not designed to respond to specific political, social, and organisational challenges on the ground, particularly at the grassroots or local level. In the end, reforms only deliver to countries impressive looking laws and PFM systems that mimic best practices and global agendas but function poorly in terms of implementation and producing the purported benefits and outcomes (Andrews et al., 2017).

Meyer et al. (1997) argues that foreign assistance agencies are often perpetuating and encouraging mimicry in the global system by encouraging developing countries to adopt global agendas that are often termed as best practice. The foreign agencies often set themes or ideas on the global agenda such as ‘decentralisation’; ‘citizen participation’ which are then translated into funded national agendas, policies and plans supported by budgets and actors tasked with implementation of these themes and ideas. These actors are also tasked with interacting with citizens who are the recipients or beneficiaries of state action. Global actors not only set themes, agendas and policies but also the form which means that front line implementers particularly at the local level are required to implement changes and change behaviour without being given

the opportunity to contribute ideas and design reformed institutions and mechanisms (Meyer et al., 1997).

Leaders and ruling elites also see reform agendas as an opportunity to further their own agendas, resources, careers (Andrews et al., 2017; Larson et al., 2013). By adopting the form of intervention or recommended practice set by global actors, developing countries and ruling elites achieve legitimacy. Here “finance ministries or central banks gain legitimacy by agreeing to adopt such reforms, regardless of whether they offer a path toward demonstrated success in a particular context” (Andrews et al., 2017: 44). Countries are rewarded with new loans, debt write offs and higher good governance scores which in turn attract direct investment. Agreeing to adopt externally mandated reforms facilitates the continued flow of money, status and power that furthers public and private interests. In the absence of genuine desire or an internal organic drive to improve performance or to implement reforms, consequences are such that reforms are not designed to respond to specific and unique local challenges but to look like other institutions in the global system. If countries are rewarded for merely adopting reform agendas without any penalty or reward for functional evaluation measuring actual performance, countries can merely survive on looking like and sounding like a reformed State when in actual fact they are not, and they perform poorly often without consequence. There is thus no incentive to improve performance.

Andrews et al (2017) argue that institutions that tend to rely on their performance for survival are more likely to become functional organisations which are constantly testing and adapting reforms to context in order to improve performance as opposed to merely transplanting ideas which are never tested, adapted or evaluated. The government of Kenya has been introducing decentralisation and citizen participation reforms at the local government level, this study will help to provide a glimpse into whether the internal reform space, context including local actors and institutions is conducive for implementation. Furthermore, it will be indicative whether IFIs support in Kenya’s reform process is likely just a case of isomorphic mimicry or whether there is a genuine internal acceptance and demand for democratic decentralisation reforms as well as involvement in designing decentralisation mechanisms by local frontline implementers.

3.4 Conclusion

In the past, the impact of past centralisation policies on the capacity of LAs as well as the multiple role players at the local level in the form of constituency development committees

have all created problems with regards to achieving genuine local participatory governance. Limited decentralised power further limited genuine empowerment of local citizens to significantly influence and genuinely participate in public processes hence Kenya adoption of devolution in 2010.

If these reforms have any chance at being successful, there is a need to for the Kenyan government to avoid falling into the trap of isomorphic mimicry – merely replicating global agendas and institutions for access to legitimacy and funding and not out of a genuine desire to decentralise and devolve decision making power to citizens. It is integral therefore for Kenyan reforms to be designed to respond to its specific contextual and unique local challenges and not to merely look like other institutions in the global system. The next chapter will discuss in detail the research design that produced the data and the findings of this study.

Chapter 4: Research Methodology

4.1 Introduction

This chapter outlines the research method, the sampling approach, the data collection tools, the research analysis as well as ethical considerations. It provides a description of the research process that involved collection of primary and secondary data in Nairobi. The research strategy sought to contextualise the voices of research participants within the socio-political context of Kenya. This study employed the triangulation of a variety of data collection methods to ensure reliability and objectivity of the findings.

4.2 Research design

The research used a qualitative single case study approach. Most studies on participatory governance have been conducted in the form of case studies and/or meta-analyses of these case studies (Speer, 2010, 2012). Qualitative case study methodology provides tools for researchers to study complex relationships, communities, programs and other phenomena within their contexts (Baxter and Jack, 2008). A case study permits the researcher to analyse a setting and/or across settings (Yin, 2003). It is a valuable method for critically analysing programs and processes in context using a variety of data sources.

4.2.1 Case study selection methodology

According to Speer (2012) participatory governance research is usually conducted using case study methodological approach. For Yin (2003), a case study design is ideal when the researcher wants answers relating to: (i) “how” and “why” questions and (ii) contextual conditions appropriate to the phenomenon under study. Yin (2003) categorizes case studies as explanatory, exploratory, or descriptive. The type of case study approach used for this study has both descriptive and explanatory elements. This means that this case study will aim to describe an intervention or phenomenon and the real-life context in which it occurs. In addition, the case study will also attempt to explore a decision or set of decisions as to why they were taken, how they were implemented, and with what results (Yin, 2003).

The research used both the descriptive and explanatory single case study approach. Yin (2009: 14) defines the single case study methodology as “an empirical enquiry that investigates a contemporary phenomenon in depth and within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident.” Single and multiple case

designs can provide explanations as to why a phenomenon occurs, and these explanations may then be further explored by relating them to cases in other settings (Darket et al., 1998; Yin, 1994).

4.2.2 Selection of case study and criterion for selection

Article 1(4) of the *Constitution of Kenya* establishes two tiers of government: The National government and the County government. The new Constitution and the *County Government Act* (2012) have established 47 Counties that are further divided into 290 Sub Counties, 1 450 electoral wards and villages. The Sub Counties, wards and villages are decentralised units through which County governments roll out functions and services for administrative purposes only. They do not hold any financial or political autonomy (Section 48 of *County Government Act*, 2012) This is also where deliberative forums for involving citizens in the budgeting and planning processes occurs with the assistance of Sub County, ward and village administrators. According to Speer (2010, 2012) participatory governance research is usually conducted using case study methodological approach. Studies on participatory governance often deal with a significant level of socio-economic and cultural variances between its regions. This heterogeneity suggests that outcomes and experiences from one region may not apply to other regions.

Although Counties share the same devolved government structures, the *County Government Act* (2012) and the *PFM Act* (2012) are not prescriptive about the manner in which County governments ought to apply public participation legislative framework. Section 115 of the *County Government Act* stipulates that “County governments should create structures, mechanisms and guidelines for citizen participation...” Apart from the establishment of County Budget Economic Forums (CBEFs), Kenya’s legislative framework only prescribes that County governments create a County specific public participation framework providing a roadmap of how public participation will be implemented in each County at the various decentralised units.³

³ The County government offer the following opportunities for public participation in budget and planning. CBEFs are the main vehicle which operate at the County level. Citizen forums (fora) are also held at Sub County, ward and village levels.

Among the many things that Counties differ on is the implementation of public participation. According to the CoK (2010) and the *PFM Act* (2012) each County can develop its own public participation framework. Furthermore, Kenya is a multi-ethnic country with immense variety of indigenous cultures, languages, customs, traditions, economic and political contexts which could all translate into a variety of public participation strategies and outcomes.

The case study selection aimed to study the variety of public participation strategies being implemented on the ground as well as the differing public participation experiences in a particular/specific socio-economic context. The researcher therefore sought to select case studies with similarities in the following range of characteristics:

- Counties with established and operational County Budget Economic Forums (CBEFs)⁴
- Classified as an urban County
- Counties with an ethnically diverse population
- Counties with high levels of inequality⁵
- Counties with high levels of adult literacy⁶
- Counties with organised groups such as residential associations, community-based groups and civil society.

Kenya's 2009 census categorised 4 out of Kenya's 47 Counties as urban – Nairobi, Mombasa, Kisumu and Machakos Counties. Initially the research project was designed to adopt a multi case study approach however this approach was later abandoned due to the other cases not meeting basic and critical research criteria outlined above. During the scoping exercise the researcher discovered that the other Mombasa, Kisumu and Machakos Counties during the time of study either did not have an established or operational CBEF or a County public participation law. It was also discovered that Machakos is predominantly peri-urban than urban (Machakos Draft Annual Plan, 2013). Furthermore, during the scoping exercise the researcher was unsuccessful in finding participants from the Mombasa County government who were willing

⁴ Section 137 of the *PFM Act* states that CBEFs are to serve as the primary means of consultation on local budgets and plans and also broader matters of economy and finance. The CBEFs shall consist of members of the Executive and an equal number of nominated and appointed representatives of business, labour, religious groups, women, youth, persons with disabilities.

⁵ As defined using the Kenya National Bureau of Statistics using: (i) Head count index measuring the percentage of individuals living below the poverty line in each County (ii) disparities in household expenditure (iii) the Gini – coefficient measuring the distribution of incomes

⁶ Adult literacy figures as defined by The Kenya National Adult Literacy Survey (KNALS) conducted in 2006 by The Kenya Bureau of National Statistics: The population of 15 years and older who are able to read and write in Kenya's official languages: English and KiSwahili.

or available to take part in the study. Additional details of the study sample are explored in section 4.4.

As the final sample, the researcher selected Nairobi County as the case to be studied due to the presence of the following range of key characteristics in the County: Nairobi County was among the few Counties in the country to have an established and operational County Budget Economic Forums (CBEFs) which is a joint participation body recently introduced by the *PFM Act* (2012). Nairobi County is classified as an urban County with an ethnically diverse population, high levels of inequality (Kenya National Bureau of Statistics (KNBS), 2013) and adult literacy (Kenya National Adult Literacy Survey (KNALS), 2006). Nairobi County also has a large presence of organised groups such as residential associations, community-based groups and civil society organisations. The County had at the time of study a draft County public participation law which was adopted into law in August 2016. Reasons for the highlighting these characteristics as an important part of the case study selection is explored in the sections below.

4.2.2.1 County Budget Economic Forums (CBEFs)

Kenya's legislative framework emphasises the roles and responsibilities of public participation at the County level. County governments are responsible for engaging the public in budget and policy formulation planning and service delivery priority setting (CoK Arts 35; 201; 232; CGA 2012 Arts 94-96; *PFM Act* Art 207) thereby making the Counties the main unit and level of analysis. County governments are by law required to establish CBEFs as a means of consultation on County government plans and budgets (*PFM Act* section 137). Section 137 of the *PFM Act* states that CBEFs are to serve as the primary means of consultation on local budgets and plans and also on broader matters of economy and finance.

The CBEF is a joint participation body between state actors and non-state actors. It consists of members of the Executive and an equal number of nominated and appointed representatives of business, labour, religious groups, women, youth, persons with disabilities. CBEFs therefore play a key role in facilitating the Executive's engagement with the public and in determining public participation outcomes. According to Part 7 of the *County Government Act* (2012) CBEFs are to be established "as soon as practicable" however at the time of study, the vast majority of Counties were yet to establish CBEFs and whilst some Counties had established CBEFs they had yet to be operational (Miri et al., 2014). Nairobi County at the time of study

was the only county to meet this criterion. It was therefore important to select a County with established and operational CBEF because CBEFs are a crucial part of assessing the new opportunities for public participation in public policy at the County level.

4.2.2.2 County public participation law

Section 115 of the *County Government Act* (2012) stipulates that Counties should create its own structures, mechanisms, guidelines for participation. A *Public Participation Act* provides the legal basis for any policy formulation. At the time of study, Nairobi County was the only County to have an established, operational CBEF plus it had a draft County public participation law which was being considered by the County assembly. Not all County governments had been swift to introduce a County specific participation law as they could facilitate participation as County governments through other national legislative frameworks such as the Constitution (2010), the *County Government Act* (2012) and the *Public Finance Management Act* (2012). Nairobi County had at the time a draft public participation law (specific to the County) in the last stages of finalization (Nairobi County, 2015).

Nairobi County had in place its own separate legislative design which aligned the Constitution and other national legislative frameworks to its context on how public participation will be rolled out. It was thus selected because the draft County specific participation law assisted the researcher to better analyse and understand Nairobi County's implementation strategies in context. In terms of analysis, the law provided a legal and institutional framework and guidelines which assisted the researcher to situate and answer the research questions as the legislation provided the researcher with the roadmap of how public participation will be implemented in each County at the various decentralised units by the Nairobi County government. Other reasons for selecting Nairobi include population size, diversity and number of organised groups are explored further below.

4.2.2.3 Population size, urbanisation and economic activity

According to Kenya's latest 2009 census administered by the Kenya National Bureau of Statistics (KNBS), Kenya has a total population of 38, 6 million people of which 68% live in rural areas and 32% live in urban areas (KNBS, 2009). Although the majority of Kenya's population live in rural areas, Nairobi County has the largest population at 3 million (KNBS, 2009). The rapid population growth in urban areas has been attributed to increases in rural to urban migration due to biased development in urban areas as well as high levels of economic

and educational opportunities (Kenya National Household Survey (KNHS), 2012). Nairobi County reportedly generates 60% of the country's GDP and contributes 50% of the country's formal employment (KNBS), 2015). Nairobi County was therefore selected as a suitable case study in order to understand how a County government implements citizen participation and facilitates deliberation in a socio-economic context that is urban, large and diverse in nature.

Urbanization was an important part of the selection criteria also for operational reasons of the study. Conducting research in a rural County would have been extremely challenging given the language barriers, the vast amount of geographical space and the limited modes of public transportation. Furthermore, rural Counties in Kenya are prone to ethnic and violent conflicts (Ndiku, 2014). Conducting research in an urban setting was much safer, less costly financially and also in terms of time thereby making it practically more feasible for the researcher to successfully collect the necessary research data.

4.2.2.4 Poverty and inequality

The economic activities of Nairobi County generate large County revenues in addition to significant equitable share revenues distributed by the national government. Nairobi County had the largest revenue at the time of the research design in 2015 of Kshs 30 million, (KNBS Economic Survey, 2015). Furthermore, Nairobi was selected by the Ministry of Local Government in 2014 to receive additional funding to strengthen local governance capacity, improve service delivery through participatory urban planning, development and governance in a project funded by the World Bank and *Agence Francaise de Development* (AFD) (Nairobi Integrated Urban Strategic Plan (NIUSP), 2014). This is because despite the economic growth of Nairobi County, it also has the highest levels of poverty and inequality with the majority living in dire conditions (NIUSP, 2014).

Kenya has an estimated Gini co-efficient of 39% in rural areas and 49% in urban areas (KNBS, 2013). Kenya's national Gini co-efficient is 0.44 compared to Nairobi County's Gini co-efficient of 0.34. Nairobi County's Gini co-efficient is almost as high as the national average, reflecting high levels of inequality. The disparities in household and individual expenditure are more pronounced in urban areas than in rural areas (KNBS, 2013). Inequalities in consumption expenditure are pronounced in Nairobi. The County displays significant gap between the share of households whose expenditure share is Ksh7,200 or above and the share of households whose expenditure is Ksh1,440 or less (KNBS, 2013). This gap in household expenditure is

perhaps because Nairobi is amongst Counties with the highest proportions of their population without work (KNBS, 2013).

About 60% of Nairobi County's population live in informal settlements without basic services such as water and sanitation (Kenya Household Budget Survey (KHBS) 2009). Nairobi also has problems of spiralling informal settlements with insufficient housing, water, sanitation, solid waste management, poor refuse collection and infrastructure (NIUDP, 2014). Finally, Nairobi has a registered poverty rate of 22% (KNBS, 2013) against 45% of Kenya's national poverty line (KNBS, 2013).

4.2.2.5 Literacy levels

The literacy rate and education as a whole are important characteristics to factor in given the critical role literacy and education can play in national development, empowerment of individuals and meaningful participation. More importantly County governments are expected to produce and publish key policy documents containing vital information. The ability of citizens to read and engage with policy and public documents is vital for ensuring meaningful engagement and accountability in public participation forums.

Kenya's most recent national adult literacy survey revealed that 61,5% of Kenya's adult population (those aged 15 years and older) are literate (Kebathi, 2008). Urban areas recorded higher adult literacy levels than rural areas (Kebathi, 2008). Nairobi city was recorded to have an adult literacy rate of 87% (Kebathi, 2008). The adult literacy levels in Nairobi County is much higher than the national average. Nairobi is among Counties with the lowest proportion levels of the population with no education at all (KNBS, 2013). Furthermore, Nairobi County has public universities, several private universities and other institutions of higher learning such as University of Nairobi, East Africa University, among others.

4.2.2.6 Ethnicity

Given Kenya's historical problems of ethnicity being attached to resource allocation and decision making around policy, the selection of ethnically heterogeneous Counties was ideal (Hendriks, 2010; Ndiku, 2014; Njogo, 2013). Nairobi County was selected because it consisted of all the major ethnic groups in the country which include the *Kikuyu*, *Luo*, *Luhya*, *Kalenjin*, *Kisii* and *Kamba* (NIUDP, 2014). Nairobi County is the most ethnically diverse County due to the many economic and education opportunities attracting ethnicities from around the country

as well as different nationalities from other countries within the East Africa region. It is estimated that the Kikuyu are the most dominant ethnic group in Nairobi County given that they are the largest ethnic group in the country (Dafe, 2009; Hendriks, 2010).

4.2.2.7 Organised groups

Organised groups can play a strong influential role in engaging with local government in representing various interests. Organised groups can be community based, residential, sectoral, business related. Kenya has a diverse range of organised groups which actively engage in governance processes (KNBS, 2015). Urban areas have Residents Associations which are organisations formed by groups of people from specific area or community who work together as a unified force to engage with local government to address issues in their local area (Hendriks, 2010).

Resident Associations are required to register under Section 10 of the *Societies Act* of 1998. Positions are decided by way of nominations and membership is open to all. Nairobi County is home to the largest number of international, regional and national governmental, non-governmental, cooperate, donor organisations and development agencies (Hendriks, 2010). It also has the largest number of Resident Associations in the country (KARA, 2015). These various groups implement development programmes through capacity building of Kenyan citizens to effectively engage with County governments and public policies for efficient service delivery (KNBS, 2015). Nairobi County fits the criteria for a County with many active organised groups which play a vital role in understanding implementation of citizen participation.

4.2.2.8 Political affiliation

Prior to commencement of the study, Kenyans went to the poll on the 4th of March 2013, to elect the President, Senators, County Governors, and Members of Parliament for the 290 electoral constituencies, Civic Wards and Women County Representatives (Independent Electoral and Boundaries Commission (IEBC), 2013). The County Budget Economic Forums are responsible for managing the participation of County economic affairs. CBEF members are appointed by the County governor of which the governor is also a member (*PFM Act*, 2012). Implementation of public participation and other related provisions could be influenced by differences in governorship style partly attributed by internal party policies and/or politics. Furthermore, participation is rolled out at the ward level where constituencies have different

political party representatives representing their ward constituencies in the County assembly. The receptiveness of direct participation by elected officials could be resisted should they perceive it to be a threat to their political ambitions for re-election. Different ward level political affiliations could have a positive or negative bearing on the nature of public participation particularly in wards represented by opposition party members.

The Kenyan political landscape consists of political party coalitions. The two dominant coalitions are the Jubilee Alliance and the Coalition for Reforms and Democracy (CORD). The 2013 Jubilee Alliance consisted of The National Alliance (TNA), United Republican Party (URP) and United Democratic Forum (UDF) Parties which later left the coalition (The Star, 2012). The Jubilee Alliance at the time of study was the majority ruling party in Kenya and the current Kenyan President – Uhuru Kenyatta is the leader of the Jubilee Alliance. The Coalition for Reforms and Democracy (CORD) constitutes as the main opposition party in Kenya (IEBC, 2013). CORD at the time of study was a coalition of multiple political parties mainly the Orange Democratic Movement (ODM), Wiper Democratic Party of Kenya (WDM-K), Ford-Kenya and the Federal Party of Kenya among others. The leader of the main opposition alliance is Raila Odinga who is also the leader of the ODM party (IEBC, 2013).

During the time of research in 2015, the governor of Nairobi was Dr Evans Kidero, a member of the opposition ODM party. At the time, the opposition ODM party was the governing party in Nairobi County, enjoying just a slim majority of 43 members over the ruling TNA Party with 41 members (IEBC, 2013). The absence of a single dominant party at the time in the Nairobi County Assembly meant the presence of members from different parties representing various wards in the various Sub Counties which could influence responsiveness and the roll out of County government participation forums.

In addition to competing political interests, Nairobi County has a history of an inefficient and corrupt system of governance, which has resulted in poor state-citizen relations and high levels of distrust (Mitullah et al., 2004). There was little evidence to suggest that the view had changed. Erstwhile Nairobi County governor Dr Kidero was and still is under investigation for corruption charges and several former senior Nairobi County officials had just been charged with corruption and fraud (Daily Nation, 2015). By selecting Nairobi County, it allowed the researcher to gauge the influence of Nairobi's diverse and contested micro political systems on participatory processes. Nairobi's, diverse and contested political landscape, local government

history of fraud and corruption is important for understanding complex citizen-state relations and its implications for participation in terms of implementation strategies and citizen responsiveness.

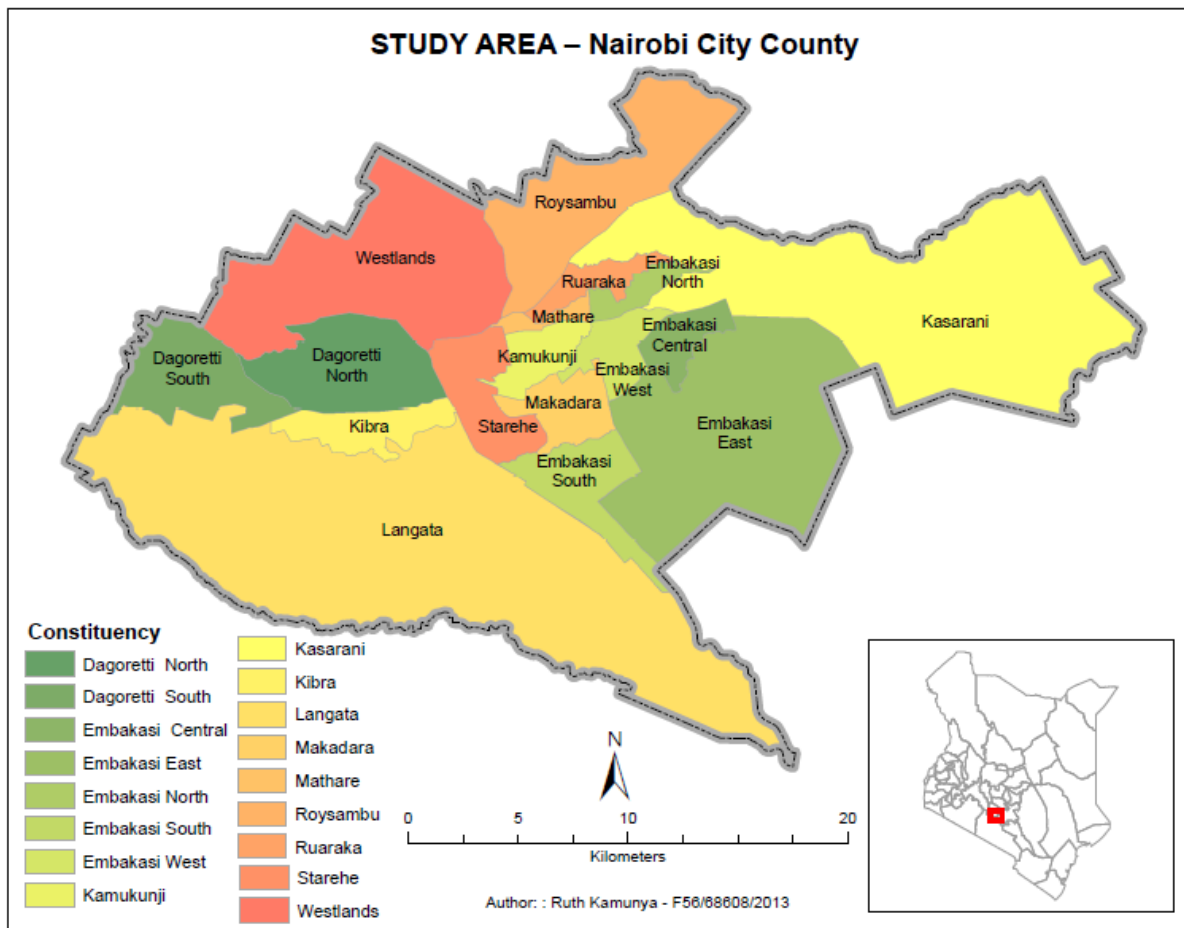
4.3 Embedded single case study: Nairobi County's Sub Counties

A single case study is “an intensive study of a single unit... a spatially bounded phenomenon – e.g. a nation-state, revolution, political party, election, or person – observed at a single point in time or over some delimited period of time” (Gerring, 2004: 342). It is important to note that within a single unit of analysis – it is also necessary to pay attention to particular sub-units. Yin (2009) refers to this as an ‘embedded’ single case design with multiple units of analysis. Instead of examining only the overall nature of citizen participation in Nairobi County, the study also looked at multiple geographical units across Nairobi County. Nairobi County is divided into 17 sub-regions referred to as ‘Sub Counties’ each divided according to high, medium and low-density and income levels (Nairobi City County, 2015).

Selecting Nairobi County as the study area was also useful for comparing the implementation and experiences of public participation strategies between different areas/wards. According to the Kenya National Bureau of Statistics (2009) Nairobi's average poverty rate is 22% and of the 17 Sub Counties, Westlands Sub County has the lowest poverty rate in Nairobi at 15%, consisting of high income households and a low-density population. On the other hand, Makadara Sub County has the highest poverty rate in Nairobi County at 30%, higher than the average County poverty rate, consisting of low income households, poor service provision, high unemployment rate and high-density population (KNBS, 2009). The diversity between low, middle and high-income residential areas in Nairobi was likely to have consequences for how County officials implement citizen participation and for how citizens experience participation.

Below is a map of the study area. See Annexure A for more detailed information and a summary of some of the demographics of each Sub County.

Figure 5: Nairobi County



Source: Kamunya, R. University of Nairobi, Department of Geospatial and Space Technology, 2015

The diversity within the demographic make-up of the 17 Sub Counties was useful for comparing the various implementation strategies and experiences of public participation between different Sub County (geographical) areas in Nairobi County. Looking at the diverse geographical sub units each with a unique political, socio- economic and historical elements embedded within the greater Nairobi area provided rich data for analysis on participation techniques and perceptions as well as served to better illuminate the case of Nairobi County.

4.4 Sampling and data collection techniques

Collecting case study data requires careful planning and prudent use of both the case participant's and the researcher's time for effective and efficient data collection (Darke et al., 1998). In order to avoid difficulties during data collection, researchers should prepare themselves with sufficient background information about a case study site prior to commencing data collection. Furthermore, purposive sampling entails that the researcher actively selects the

most appropriate sample of participants to answer the research question. The researcher determines ways to get the information (Bernard, 2002; Lewis and Sheppard, 2006).

The researcher thus conducted an in-country scoping visit prior to data collection to collect vital information for purposive sampling. The trip was conducted over a three-week period in April 2016. The scoping trip provided more accurate information about the study context. It also assisted the researcher to find and select participants who would be suitable, available and willing to participate in the study. The researcher also used it as an opportunity to refine the research question, goals and data collection methods by gaining valuable feedback/input from strategic persons who live in the study area and are familiar with Nairobi County government system. The scoping visit afforded the researcher the opportunity to pilot interview schedules with possible study participants with 16 people working in or consulting for government, parliament and civil society in relation to public participation in Nairobi, Machakos and Mombasa Counties. See Annexure B2 for a list of pilot interviews and Annexure E1 for the interview schedule. The visit also assisted the researcher to identify and collect necessary documents for analysis.

Efficient and effective data collection in the field requires planning for dealing with the difficulties of gathering data in a real-life environment not controlled by the researcher (Yin, 1994). The scoping trip helped the researcher to identify potential problems and plan ahead to mitigate them. The researcher discovered during the scoping trip that Machakos County did not meet the criteria to be classified as an urban County but a peri-urban County. Additionally, due to a very tense relationship between civic actors and public officials in Mombasa County, the researcher was not able to find a sufficient number of participants willing to participate in the study. As a result of the findings of the scoping trip, the research design was changed from a multiple case study to an embedded single case study approach. Nairobi County was thus selected as the case study for reasons explored in the previous sections.

Case study research relies on various sources of evidence and data collection techniques such as interviews, observation, questionnaires, and document and text analysis (Yin, 1994). The original research design included dissemination of semi structured questionnaires to citizens at public participation hearings (commonly referred to as citizen forums in Kenya) on County budgets and plans facilitated by the Nairobi County Government. The purpose of the questionnaires was to collect information on the challenges and successes of the structures,

mechanisms, guidelines put in place to facilitate public participation and to obtain participant's perceptions and experiences on implementation of citizen participation from a larger and diverse number of respondents.

The researcher was unsuccessful in her objective to attend and observe any public hearing/participation forums as well as in disseminating questionnaires at public participation forums as the scoping trip revealed the difficulty of attending public hearings as they are often advertised at very short notice and prone to sudden changes in meeting times and venues. Given the unpredictable timing and unreliable information of the participation meetings as well as the resource and time intensive exercise of disseminating multiple questionnaires at multiple venues, it would not have been possible to conduct the interviews without assistance. Due to a lack of resources and the short and unpredictable time frames for citizen forums, the researcher was not able to secure assistance from other locals to disseminate questionnaires. Considering the language barrier plus dissemination of questionnaires singlehandedly at multiple locations simultaneously with unpredictable changes in meeting times, dates and venues without assistance, it would not have been possible for the researcher to obtain a balanced and accurate data sample.

To compensate for the lack of data from engaging citizen directly, the researcher relied on *Afrobarometer* survey data. *Afrobarometer* is a non-partisan research network that conducts public attitude surveys on democracy, governance, economics and other related topics in more than 30 countries in Africa including Kenya (Mitullah, 2016). *Afrobarometer* conducts face-to-face interviews in the language of the respondent's choice with nationally representative samples of 1,200 or 2,400 respondents. A sample of this size yields country-level results with a margin of error of +/-2% at a 95% confidence level (Mitullah, 2016). *Afrobarometer* has been conducting public attitude surveys in Kenya since 2003 with the assistance of the *Afrobarometer* national partner in Kenya, the Institute for Development Studies (IDS). The IDS conduct interviews of a nationally representative, random, stratified probability sample of Kenyan adults. For the purposes of this study, the researcher relied on *Afrobarometer* surveys conducted in Kenya in 2010, 2014 and 2016 to corroborate findings in relation to citizen perception of public participation and governance at the County level. The following subsections will discuss each of the data collection methods used for this study.

4.4.1 Interviews

Interviews are considered as vital sources of information for case study research (Yin, 1994) Primary sources of data source emerge from interviews whenever a qualitative case study research is undertaken. Darke et al. (1998: 53) argues that “it is through interviews that researchers can best access case participants’ views and interpretations of actions and events.” The final interview sample for this study consisted of the overall number of 12 Nairobi County officials and 14 non-state actors, making an overall total number of 26 interviews which are broken down in Table 1 below. Each interviewee was interviewed once by the researcher. A more detailed explanation of who was interviewed and why are provided in the subsequent sub sections. See also Annexure B⁷ for a complete and comprehensive list of all interviews conducted.

Table 1: Overview of interviewees and total no of interviews conducted

Institution	No of persons interviewed
Nairobi County Government	12
Civil Society Organizations	5
Residence Associations	5
Constitutionally Established Independent Body	1
Academic	1
International Organizations	1
Religious	1
Total	26

4.4.2 Interviews with county officials responsible for facilitating participation

Key informant interviews were conducted with County officials responsible for implementing public participation in Nairobi County. The purpose of the interviews was i) to learn what structures, mechanisms, guidelines have been put in place in Nairobi County to facilitate public participation ii) to obtain reflections and experiences from facilitators on implementation of

⁷ Annexure B1 contains the pseudonyms allocated to the Sub County and ward administrators interviewed for this study to protect their identities and maintain anonymity. Reasons for maintaining anonymity are provided in section 4.7 of this chapter

citizen participation in County government budgeting and planning processes iii) to verify the extent to which participation mechanisms are in accordance with legislative frameworks on participation and lastly iv) to identify success and challenges in the roll out of public participation by newly devolved structures.

Interviews were conducted with 9 Sub County administrators out of 17 which translates to just over 50% of Nairobi's Sub County administrators who are responsible for implementing and overseeing public participation at Sub County and ward levels. The remaining 8 Sub County administrators were either unavailable or unwilling to be interviewed. In addition, the researcher managed to secure 2 interviews with ward administrators to get a sense of their experiences and thoughts.

Attempts to schedule interviews with County officials who are responsible for implementing public participation at the County level located in the County Planning Unit and/or County Executive Office were unsuccessful as there was no publicly available information on how to contact Executive members of the Nairobi County Government and various County departments including departments of finance and planning. Requests to interview County Executive and department officials through contact information gathered from other study participants were either not responded to or denied. In the end, an interview with a senior County official was successfully scheduled with Nairobi County's Chief Sub County Administration Officer who invited the researcher to observe capacity building workshops on public participation for County Executive and Sub County administrators. Data collection through attending two out of the four workshops facilitated access to a larger number of study participants.⁸ It also allowed for interaction, observation and informal interactions with a considerable number of County officials in various positions in the County government which brought out more insightful engagement than in a one on one formal interview process. See Table 2 below for a breakdown of interviews with Nairobi County officials. Each person was interviewed once by the researcher.

⁸ See section 4.4.6 for more detail on how data was collected through observing the two workshops

Table 2: Breakdown of interviews with Nairobi County officials

County Official	No. interviewed	Sub County
Sub County Administrators <i>(pseudonyms assigned)</i>	9	Kamukunji; Westlands; Starehe; Langata; Makadara; Roysambu; Embakasi Central; Embakasi North; Kibra
Ward Administrators <i>(pseudonyms assigned)</i>	2	Kasarani; Mathare
Chief Sub County Administrators	1	Nairobi County Administration
Total	12	11 out 17 Sub Counties (64%) participated in study

Interviews were conducted with a total number of 12 Nairobi County officials which consisted of 1 Chief Sub County Administrators, 9 Sub County administrators and 2 ward administrators. Overall officials from 11 out of Nairobi's 17 Sub Counties participated in the study.⁹ The six Sub Counties left out of the data collection process included: Dagoretti North, Dagoretti South, Ruaraka, Embakasi East, Embakasi West and Embakasi South. The researcher did however manage to interview Embakasi North and Embakasi Central Sub County administrators which share similar demographics as the other Embakasi Sub Counties. This sample was sufficiently diverse and was able to provide a broad understanding of the issues being studied.

4.4.3 Interviews with non-state officials responsible for facilitating participation

Attempts to schedule interviews with both non-state and state members of the County Budget Economic Forum (CBEF) were largely unsuccessful as interview requests were either ignored or turned down. Only two interviews with non-state members of the CBEF were successful, the members interviewed included a representative of the Muslim Faith organisation called SUPKEM (Supreme Council of Kenyan Muslims). It is an umbrella body of all Muslim mosques organisations and *Madrases* in Kenya. Formed in 1973, it is a registered and recognized national body by the government of Kenya and is also part of a Muslim international body. They have 10 000 members and represent 6000 Muslim organisations (SUPKEM, 2017).

⁹ Annexure B1 contains the pseudonyms allocated to the Sub County and ward administrators interviewed for this study to protect their identities and maintain anonymity. Reasons for maintaining anonymity are provided in section 4.7 of this chapter

The researcher also interviewed another CBEF member from The Institute of Social Accountability (TISA). TISA is a civil society organisation located in Nairobi and established in 2008. It is committed towards the achievement of sound policy and good governance in local development in Kenya. TISA “focuses on participatory governance and capacity building and has built up considerable expertise and networks in Nairobi County and nationally” (TISA,2016).

In addition, an interview was also conducted with a Commissioner at the Commission of Revenue Authority (CRA). The CRA is an independent commission set up under Article 215 of the *Constitution of Kenya* (2010) whose core mandate “is to recommend the basis of equitable sharing of revenues raised nationally between the national and the County governments and among the County governments” (CRA Guidelines,2015). The CRA is also mandated to monitor as well as capacitate County governments on their obligation to engage the public on matters of local budgets, plans and County affairs in accordance with *PFM Act*. In 2016, the CRA compiled and published National Guidelines for the implementation of CBEFs. Table 3 below is a breakdown of interviews with non-state actors assisting the Nairobi County government to facilitate public participation in County budgets and plans. Each person was interviewed once by the researcher. See Annexure E1 for the interview schedule.

Table 3: Breakdown of interviews with non-state actors facilitating participation

Institution	Person interviewed	Role
SUPKEM – Supreme Council of Kenyan Muslims	Vice Chair	Member of Nairobi County CBEF
TISA – The Institute of Social Accountability	Budget Accountability and Oversight Officer	Member of Nairobi County CBEF and nominated Secretary of Nairobi CBEF
CRA- Commission for Revenue Authority	Commissioner	Drafting and monitoring of national CBEF guidelines and capacity building of CBEF members

4.4.4 interviews with non-state actors who engage in participation forums

Using purposive sampling the researcher approached key informants from civic groups and residential associations who regularly attend participation meetings and who make public input and/or represent citizen groups in participation forums. Persons belonging to and/or

representing one of these organised groups were selected for one on one semi structured interviews. The purpose of the interviews was: i) to understand the challenges and successes of the structures, mechanisms, guidelines put in place to facilitate public participation ii) to obtain participant's reflections and experiences on implementation of citizen participation in County government budgeting and planning processes. The interviews also meant to verify the extent to which participation mechanisms were being implemented in accordance with legislative frameworks on participation.

Interviews were conducted with five civil society organisations (CSOs) listed in Table 4 below. Each person was interviewed once by the researcher. For a detailed list of interviews see Annexure B.

Table 4: List of CSOs interviewed

No.	Name of Institution	Area of work	Person interviewed
1.	Institute for Economic Affairs (IEA)	Research and Advocacy	Programme Officer
2.	International Budget Partnership (IBP)	Research and Advocacy	Country Office Manager
3.	Institute for Legislative Affairs (ILA)	Drafting of Kenyan (national and County) Legislation and Policy	Former CEO
4.	National Tax Payers Association (NTA)	Research and Advocacy	Programme Officer
5.	The Institute for Social Accountability (TISA)	Research and Advocacy	CBEF CSO representative/ Program Officer

Each of the organisations captured in the table above are actively promoting open, accountable and participatory County governments in Nairobi and different parts of Kenya. They also capacity build citizens and County governments to engage effectively in public participation forums on County budgets, plans as well as monitoring performance of public officials and the delivery of services. It is very important to note that TISA is both a facilitator of participation a member of Nairobi County CBEF as well as a participant in Nairobi County government citizen forums at the sub county and ward levels. It is also important to note that the former CEO of ILA worked closely with policy making institutions, government departments, Members of Parliament and other stakeholders in the drafting of the Constitution as well as national participation policies and legislation.

An additional reason why these CSOs were purposefully selected by the researcher to participate in the study is because they partnered with the Commission on Revenue Authority (CRA), a Constitutionally established independent body mandated to monitor as well as capacitate County government's obligation to engage the public on matters of local budgets, plans and County affairs in accordance with the *PFM Act*. In 2015, the CRA, IBP, NTA and TISA embarked on a national tour to assess the extent to which County governments have established CBEFs (CRA Guidelines, 2015). The CRA with the assistance of these three civil society organisations developed CBEF guidelines to guide its implementation by County governments. They were thus considered strategic participants by the researcher and selected for interviews as part of investigating what structures, mechanisms and guidelines for public participation have been created by the County governments. The interviews aimed to solicit information regarding: the new platforms for citizen participation; the progress made within the County in implementing public participation principles as stipulated in the *County Government Act* and the *PFM Act* and the challenges and successes of implementing new laws pertaining to participation by recently devolved institutions.

In addition to civic actors, Residents Associations were interviewed as they are a prominent feature of Nairobi's socio-economic and political landscape. Residents Associations are informal spaces created by residents of Nairobi to participate in governance matters at the local level. Residents Associations are organised networks created by citizens to have members represent their interests when engaging with local government and public policies. Below is a table listing the five Residents Associations interviewed. The researcher interviewed each organisation's representatives once.

Table 5: List of Residents Associations interviewed

No.	Residents Association	Year Established	Location	No. of members	Person interviewed
1.	Dandora Transformation League (DTL)	2013	Dandora, Embakasi Sub County	120	3 members of the Executive Committee consisting of Head of DTL; Deputy Head and a Ward Representative
2.	Karen Langata District Association (KLDA)	1940	Karen, Langata Sub County	700	Director of KLDA

3.	Kenyan Alliance for Residents Association (KARA)	1999	Located in all 17 of Nairobi's 17 Sub Counties and nationally	236 Residents Associations (nationwide) 106 associations in Nairobi	Programme Officer
4.	Kilimani Project Foundation	2012	Kilimani, Dagoretti North	351	Secretary of Kilimani Project Foundation
5.	Old Race Course Estates (ORCE) Residents Group	1996	Eastleigh, Starehe	332	Secretary of ORCE

Source: Own compilation using interview notes and Res Association website and pamphlet data

Dandora Transformation League (DTL) is located in one of Nairobi County's largest slums in Embakasi Sub County. Established in 2013, DTL is an umbrella body bringing together over 120 youth groups from the low-income Dandora suburb, to the east of Nairobi in Kenya. DTL is also registered as a not-for-profit community based organisation. The Karen Langata District Association (KLDA) is one of the oldest Residents Association in Kenya, established in 1940 and located in one of Nairobi's most affluent suburbs in Langata Sub County, it represents the interests of approximately 700 residents residing in Karen and Langata suburbs.

The Kilimani Project Foundation (KPF) established in 2012 is a Residents Association located in the affluent part of the middle-high income Dagoretti North Sub County consisting of individual membership of 334 residents and corporate membership of 17 businesses. Established in 1996, The Old Race Course Estate (ORCE) Residents Group which represents approximately 300 residents in a mixed low to middle class area is located in Starehe Sub County. Finally, The Kenya Alliance Residents Association (KARA) is an umbrella body established in 1999 representing a large network of diverse and active resident associations in Nairobi. KARA is not only representing residents in Nairobi County but has also established branches in several other urban Counties in Kenya. Nationwide, KARA is an umbrella organization representing 236 Residents Associations of which 106 associations throughout Nairobi (Echessa, 2010). Their largest membership is located in Nairobi County and their membership is inclusive of Residents Associations from low, middle and high-income areas.

This sample is a mixture of long-standing associations and recently established ones. KLDA, ORCE Residents Group and KARA have been in existence 75 years, 20 years and 17 years

respectively whilst DTL and Kilimani Project Foundation have been in existence for just under 5 years. The sample is spread across different parts of Nairobi including low income, middle income and high-income areas with membership numbers ranging between 100 and 700 members providing a balanced data sample. The interviews with Residents Associations aimed to answer the study's objectives by ascertaining the quality and nature of participation by Nairobi residents in newly devolved County government spaces and also how citizens have responded to challenges in the implementation of participation using informal spaces.

Other strategic non-state actors interviewed included academic institutions such as The Institute of Development Studies (IDS) which is based at the University of Nairobi. The IDS was selected because it conducts research on public participation and urban governance in Kenya. It also collects and produces Kenyan data on a variety of indicators for *Afrobarometer* a pan-African, non-partisan research network that conducts public attitude surveys on democracy, governance, economic conditions. The IDS have conducted research and collected data on Kenyan attitudes on local governance, devolution and citizen participation. Attempts to interview researchers at the Centre for Devolution Studies were unsuccessful as they were not reachable and unresponsive to interview requests.

An additional non-state actor selected for interview is the World Bank's Kenya Accountable Devolution Programme which is currently providing capacity building and technical support to various counties in Kenya including Nairobi County on various issues including participation. The World Bank also recently released a series of research outputs on citizen participation in Kenya pre and post devolution (World Bank, 2013, 2015). Interviews were conducted with non-state actors who regularly engage with the Nairobi County government and participate in the recently established participation structures.¹⁰ These are thus key informants that could provide insight into implementation of public participation since devolution by Nairobi County government.

4.4.5 Online questionnaires

Due to the lack of financial and human resources as well as the poor unpredictable nature of citizen forum meetings, the research design changed the physical distribution and completion

¹⁰ See Table 2 under section 4.4.1 for an overview of interviewees who participated in study and Annexure B for a breakdown of interviews with non-state actors

of citizen questionnaires to an online questionnaire designed to be distributed and completed online by organised groups and Nairobi County officials at the county, Sub County and ward level. The online questionnaire was designed to collect responses that would assist the researcher to gauge the experience of ordinary citizens participating in public forums on the County budget and plan by enquiring about methods of mobilization, access to information, the quality of deliberation, the management of meetings as part of trying to capture the experiences of ordinary citizens engaging with these forums. The online google questionnaire (which could be completed by simply sharing a URL link) was designed to easily reach participants and collect diverse viewpoints.

The sample consisted of KARA the largest umbrella body of Residents Associations in Kenya who have one of the largest memberships in Nairobi spread across Nairobi's 17 Sub Counties. KARA was asked to disseminate the online questionnaire via their membership email list serve but unfortunately received as few as two questionnaire respondents. Possible explanations put forward by KARA were that the lack of responsiveness reflected how poorly attended and knowledgeable the participation meetings were by citizens who therefore were not eligible to complete the questionnaire. The research design had assumed that most citizens attended participation forums which could have been a wrong assumption. The second reason put forward for the poor response was the lack of internet access by citizens, this is a plausible reason put forward as the latest 2016 Kenyan *Afrobarometer* survey indicated that 43% of urban survey participants never use the internet and overall 59% of the *Afrobarometer* Kenyan survey participants indicated that they never use the internet (Afrobarometer, 2016).

Online questionnaires were also designed and disseminated to County officials providing perspective and understanding of public participation events, actions and processes from the perspective of those responsible for facilitation and implementation of public participation (Nueman, 2006). The online questionnaire was designed to be anonymous so as to encourage participation and honest responses especially from public officials. The sample included the entire list of Nairobi Sub County Administration – 17 Sub County administrators and 85 ward administrators. It also included the chief and deputy Sub County administrators and the County Planning Manager located in the central headquarters of the County Administration office. These officials are mandated by legislation to facilitate public participation in county budgeting and planning processes.

Unfortunately, only seven responses from ward administrators were received. Due to the anonymous design of the online questionnaire, it was not possible to ascertain which Sub County these ward administrators were based. Numerous requests and follow ups on the survey to all County officials were not responded to. Another plausible reason why there were so few respondents from the County office could be the lack of internet access and office structures. The email addresses of Sub County administration were all private email address with the exception of the County planning officer and the chief Sub County administrators who had official email addresses pointing to lack of resources which could have hindered the online data collection process. See Annexure C to see online questionnaire successfully completed by the 7 ward administrators.

4.4.6 Observation

The original research design entailed observation of public participation forums. The purpose of observation was to i) develop insight into implementation of citizen participation in context and to collect information about the implementation of citizen participation independent of participant perceptions ii) ascertain the availability and accessibility of information or documentation relevant to policy formulation and planning prior to and at public meetings iii) to observe whether participation forums are dominated by one group or exclude minorities or marginalized groups iv) ascertain political will and support for direct participation by NCC Executive and MCAs.

Unfortunately, observation of citizen forums on the County plan were not possible because no citizen forums on the County plan were held in Nairobi in 2016. August 2017 was the first time the County planned to hold citizen forums on the County Annual Plan as revealed by the County Planning Office at a capacity workshop for Sub County officials held in August 2016. Dates for the citizen forums on the 2017/18 Nairobi County budget estimates were not known or advertised in advance. Notices to the citizen forums on the budget were publicized at short notice – a few days before the scheduled date. Due to the researcher being based outside of Nairobi, it was not possible to travel to Nairobi and attend the citizen forums at very short notice.

However, the researcher was able to observe a capacity building workshop for Nairobi County Sub County Administrators and Ward administrators. These capacity building workshops were conducted between 11th and 26th of August and facilitated by a Kenyan based independent

research consultancy – Calla Consulting Research Services which is located in Nairobi. The theme of the Capacity Building effort was “Oversight on Public Participation in Planning and Budgeting Processes and Budget Tracking.” The workshop was conceived and funded by Oxfam Great Britain for purposes of supporting capacity building efforts for officers of the Nairobi County Executive and Members of the Nairobi City County Assembly. The capacity building workshop focussed on budget and planning processes, public participation and mainstreaming of gender in budgeting, public participation and governance.

The capacity building workshop involved the training of a total of 205 participants including members of the Nairobi County Assembly, the Nairobi County Executive and the entire Nairobi Sub County Administration. Participants were divided into three groups and trained separately as follows:

- i. Capacity Building Workshop for 41 MCAs, technical officers of the Committees and 20 Chief Officers from the Nairobi County Executive was held outside of Nairobi in Naivasha County from 11th to 13th August 2016 at the Masada Hotel. The training focused on legislative and technical aspects of the budget process, public participation and gender mainstreaming in the process respectively.
- ii. Capacity Building Workshop for 25 County Directors, 17 Sub County Administrators and 17 Sub County Finance Officers was held on 16th and 17th August 2016 at Silver Springs Hotel, Nairobi. The training focused on technical aspects of the budget process, public participation and gender mainstreaming in the budget process.
- iii. Capacity Building Workshop for 85 Ward administrators was split into two groups –
 - a. First Group of 43 ward administrators were trained for two days on 23rd and 24th August at Silver Springs Hotel, Nairobi. The training focused on technical aspects of the Budget Process, public participation and gender mainstreaming in budgeting.
 - b. Second Group of 42 ward administrators trained for two days on 25th and 26th August 2016 at Silver Springs Hotel, Nairobi. The training focused on technical aspects of the budget process, public participation and gender mainstreaming in budgeting.

The researcher was invited by the Nairobi Chief Sub County Administrator to observe two of the four capacity building workshops. The researcher observed the capacity building workshop for 25 County Directors, 17 Sub County Administrators and 17 Sub County Finance Officers held on the 16th and 17th of August as well as the last capacity building workshop held for the

second group of 42 (out of 85) ward administrators on the 25th and 26th of August 2016. As per Calla Consulting 2017 report on the workshops, some of the workshop objectives which aligned with this research study's objectives included:

- a. To understand the Constitutional and legal framework for public participation, with focus on marginalized and minority groups;
- b. To share experiences on current practices vis-à-vis expected approaches with focus on best practices
- c. To understand the budget cycle with focus on entry points for inclusion of the public to influence planning and budgeting
- d. To assess structures, mechanisms and tools for participatory budget process and their efficiency, with a view to improve the process with focus on uptake of local public views to County level for planning
- e. To develop action points for more effective participatory budget process

Although the initial research design entailed the method of direct observation of public officials and citizens in the natural setting of participation forums, through passive participant observation of the capacity building workshops the researcher was to an extent able to fulfill the purpose of the original observation research design. This is mainly because the goals of the workshops as well as the discussions at the workshop directly engaged and responded to the research questions. Due to the capacity building workshop objectives alignment with study objectives, the researcher was able apply the technique of selective observation. This technique allows the researcher to focus on specific conversations, activities, key words or themes and behaviours (Kawulich, 2005). The researcher was specific in her observation of activities, experiences, sentiments and behaviour of public officials in relation to the following topics:

- i. stories and experiences of public officials interacting with citizens and MCAs around public participation
- ii. experiences of implementing different citizen participation techniques, methods in different sub contexts within Nairobi
- iii. the availability and accessibility of information/documentation relevant to policy formulation and planning prior to and at public meetings
- iv. levels of participation and inclusion of minorities or marginalized groups and
- v. the structures and mechanisms for implementing public participation by County officials and their efficiency.

The researcher's decisions about what to observe was also guided and supported by theoretical frameworks of Democratic Decentralisation and Deliberative Inclusive Processes (DIPs) for meaningful participation outlined in Chapter 2 of this thesis.¹¹ The researcher also used interviews conducted with both state and non-state actors prior to the public participation workshops. This technique is referred to as focused observation (Kaluwich, 2005). The researcher also observed for information that would either confirm or differ from data arising from interviews.

Lastly, the researcher may have been limited from observing directly the sentiments of actual participants of the citizen forums, but the researcher was still able, indirectly through the sentiments expressed by officials during the workshops to gauge the experiences, sentiments of participants of citizen forums as well as the quality of public participation. According to Nueman (2006) observation methods are very useful to see how individuals act, interact and respond in natural settings. Since the researcher was not able to engage in direct observation of public officials and citizens in the natural setting of citizen forums, the researcher engaged in passive participant observation of public officials at the public participation workshops. Passive participant observation does not necessarily require the researcher to immerse him or herself extensively into the culture or context under observation in order to obtain understanding of the phenomenon under study (Kawulich, 2005). Through passive participant observation, the researcher can to a certain extent understand the culture and behaviour of groups and individuals. The researcher was able to observe, institutional and societal culture and sentiments to describe the behaviour and attitude of officials as well challenges surrounding public participation in the County.

Although observing officials talking about public participation is not a sufficient substitute of soliciting information and experiences from citizens themselves, through participant observation, the researcher observed and recorded experiences and perceptions of public officials relaying stories and experiences of their interaction with citizens before, during and after citizen forums. This in turn provided some insights and understandings of citizens' experiences of public participation mechanisms. The researcher engaged in semi-undisguised

¹¹ See figures 1 and 2 in Chapter 2 for a complete list of criteria for meaningful participation as defined by Pimbert and Wakeford's (2001) Deliberative Inclusive Processes (DIPs) as well as key criteria for successful democratic decentralisation policies, programs and institutions.

participant observation. In undisguised observation, the study participants are aware that the researcher is present for the purpose of collecting information about their behaviour for research purposes (Nueman, 2006). The researcher was introduced to workshop participants as a researcher attending the meeting for the purposes of learning about public participation in the County as part of her doctoral research but no details pertaining to what specific research data was being collected was divulged. This semi-disguise technique is often used to minimize the risk of participants under observation changing their behaviour as a result of knowing that they are being observed for certain information (Kawulich, 2005).

4.4.7 Document analysis

According to Bowen (2012) a researcher can gain understanding and develop empirical knowledge by examining or evaluating documents (printed and electronic). The researcher analysed national and County specific public participation legislative frameworks and other key related regulations and policy documentation providing specific guidelines on the roll out of public participation budgeting and planning processes. Annual reports to the County assembly on citizen participation in the affairs of the County government were originally identified as part of document analysis to assess County government's strategies and experiences facilitating and implementing public participation in public policy. Unfortunately, during the scoping trip, the researcher discovered that no such document has ever been produced and presented to the County assembly by the County Executive contravening section 92 of the *County Government Act* (2012) which provides that "the governor shall submit an annual report to the County assembly on citizen participation in the affairs of the County government."

Secondary sources of data included local media coverage of participation forums, written submissions and recent research publications on the new participation provisions and devolution by both state and non-state actors; electronic sources such as the Nairobi County website as well as websites and social media platforms of strategic informants interviewed were collected and analysed. A complete list of documents collected, and the purpose of analysis is presented in Annexure D.

4.5 Data analysis techniques

Data collected from interviews, observation and documents were analysed for common themes for the development of the semi structured questionnaire and for analysis. The researcher

derived common themes from the data collected through word-based techniques which entails the researcher drawing on word repetition, key words and concepts as a simple method of identifying ideas, perceptions and behaviours considered important in relation to public participation based on study participants experiences and/or literature. The researcher also carefully looked at words and phrases that indicate a causal connection or relationship and patterns between the data as a way of identifying themes.

In addition, the researcher employed a more deductive approach, so analysing and testing the data based on the application of pre-determined theoretical or conceptual frameworks of democratic decentralisation outlined in Chapter 2 of this thesis. The data was also tested and analysed against the theoretical concept for meaningful participation using key features of deliberative inclusionary processes (DIPs) also outlined in Chapter 2. The interview schedule and online questionnaire structure asked a variety of questions, covering areas on behaviour, attitudes, beliefs, opinions, characteristics of key requirements identified in literature which need to be taken into account in order to successfully design policies, mechanisms and programs that facilitate democratic decentralisation and meaningful participation. The researcher incorporated key indicators and questions into data collections methods such as the interview schedule, online questionnaire and observation technique which helped the researcher assess the following:

- Human resource and financial capacity to implement and facilitate public participation in public policy.
- Willingness and ability to share and transfer power and resources between various structures within the Nairobi county government.
- Political will and support from the county Executive as well as political and assembly members for direct participation with constituencies in planning and decision making.
- Local government willingness to partner with non-state actors in the implementation of public participation.
- Experiences surrounding the partnership between state and non-state actors in facilitating meaningful participation
- Presence of key criteria for meaningful participation in participation techniques and mechanisms as outlined in the Deliberative Inclusive Processes (DIPs)

These factors were included and considered during data analysis and interpretation. Both thematic and content analysis were applied to the interview, online questionnaire and observation data in order to test key concepts, identify recurring themes as well as patterns and relationships in the data. These themes and concepts formed the essential building blocks of the analysis. Content and thematic analysis was applied to other textual information sources in the form of documentation such as legal frameworks or instruments, organisational publications on participation and local government information, brochures, annual reports, published internal case descriptions, independent media and social media sources. Data obtained from observation (field notes) was also subjected to content and thematic analysis.

The process of observing is integral to understanding the breadth and complexities of the phenomenon being studied. Through observation, researchers can also “uncover factors important for a thorough understanding of the research problem but that were unknown when the study was designed” (Thomas, 2011: 38). Observation data assisted with the data analysis by providing a context for understanding data collected through the interviews, questionnaires and other documentation.

De Wet and Erasmus, (2005: 30) define coding as a vital process of “assigning unique labels to text which contains references to particular categories of information.” Coding is an essential part of data analysis which occurs first before analysis. It is a process which begins during and soon after the data collection phase. The researcher recorded and coded data into themes from interviews, documents, questionnaires and observation in the form of field notes. Semi structured interviews were transcribed and then coded and analysed. The coding process was steered by research questions and the conceptual framework. In order to draw out findings as well as to identify emerging themes and relationships between the codes, the researcher made use of excel software to capture and analyse the coded data.

4.6 Research limitations

This study looks at the implementation of citizen participation under Kenya’s newly devolved government using single case study designed to specifically answer how Nairobi County Government is organizing and implementing citizen participation. It also studies the challenges and/or successes faced by the Nairobi County government in implementing citizen participation regulations under newly devolved systems and institutions. Furthermore, it also

looked at the citizen participation techniques and methods used/selected and the extent to which they facilitate meaningful participation.

This study did not seek to evaluate the outcome of public participation or the influence of public participation on service delivery outcomes. It also did not assess the effectiveness of the forums in relation to citizen power and influence over final local budgets and plans. This is because factors such as economic development, the size of government resource endowments and the degree of political decentralisation have been known to influence public policy decisions and thus make it difficult to attribute direct correlation between citizen input and participation outcomes (McNulty, 2011; Speer, 2012). The study was also limited in that it did not collect information on participatory methods and experiences of citizen participation from all 17 Sub Counties in Nairobi. This therefore meant the research did not capture all detailed variations and experiences of public participation within each sub county of Nairobi.

The time frame for data collection (mid 2016 to early 2017) preceded local and national general elections scheduled for August 2017. These elections would be Kenya's first set of elections since the 2007 post- election violence which exposed the researcher to some level of risk as well as possible bias and lack of co-operation from study participants in government. Since the introduction of political decentralisation (the election of the County governor), the Executive is sensitive to appearing in a positive light for the purposes of re-election which could limit public officials' abilities to be open and forthcoming about their failings and challenges. During the data collection phase in August 2016, electioneering and campaigning had already started, and this could have slightly impacted on participants responses. The researcher perceived during some of the interviews with the Sub County and Ward administrators that at times they were fearful and reluctant to speak negatively of the County government. This was because their term as administrators was drawing to a close and they feared being replaced if they were seen to be undermining the current government or being seen as too critical. In a few occasions, some government interviewees spoke frankly about their fears of being victimized.

4.7 Research ethics

The research was granted ethical clearance by University of Cape Town's and the researcher adhered to university ethics policy pertaining to data collection techniques used in this study. The researcher presented to all participants interviewed a study consent forms fully disclosing to participants the aims and purposes of the study, how the data will be used as well as any

possible risks associated with participating in the study prior to gaining consent. The respondents were thus able to make an informed judgement as to whether or not they wished to participate in the study. The option to withdraw from the study was presented clearly to all interviewees in written form as well as verbatim. The researcher also sought permission to record interviews and interviews were recorded when permission was granted.

All interviewees were granted the option to be interviewed anonymously. Anonymity and confidentiality of all study participants was guaranteed unless individuals consented to be quoted in their professional capacity. According to Mouton (1996) the reliability of data collection is increased by ensuring the identity of the informants was kept confidential. All interviews with Sub County and ward administrators have been presented anonymously including those who granted consent and waived the option to be interviewed anonymously to reduce the risk and protect participants from possible job losses or victimization due to the sensitive nature of the analysis particularly in light of renewed violent post-election protests contesting the 2017 general election results. The researcher also decided to keep all the Sub County and ward officials' interviewees anonymous since some Sub County and ward administrators had expressed fear and concerns of speaking candidly with the researcher as there could be serious repercussions such as job losses for those found to be speaking negatively about the County Executive. All interviews were transcribed by the researcher in order to protect confidentiality.

Sub County and ward administrators denied interview requests without clearance from the head office of a Chief administrators. This turned out to be quite problematic as the Chief Administrators proposed payment in exchange for access, which the researcher declined to do as this would have violated the university research ethics policy. The researcher decided to get her supervisor to write an official letter confirming her student status as well as requesting permission to conduct interviews which was in the end granted access to interview County officials, but permission was predominately for limited to interviewing Sub County administrators as they were directly under his supervision unlike Ward administrators. Finally, documentation secured confidentially was handled as such, and, when respondents requested that certain information not be publicly released to a third party, this request was honoured.

Chapter 5: Reviewing the mechanisms and processes for implementing public participation in Nairobi County

5.1 Introduction

The chapter explores how the process of implementing citizen participation has been carried out since the introduction of devolution. More specifically it answers how the recently devolved Nairobi County Government has been implementing public participation provisions in local planning and budgeting processes. The chapter reviews the institutions, mechanisms and spaces for institutionalized citizen participation as outlined in legislation and other institutional frameworks under which the Nairobi County government is mandated to operationalize and encourage participation. It further analyses findings relating to the challenges and/or successes faced by the County administration in implementing citizen participation regulations under newly devolved systems and institutions. This chapter will also explore possible causes and explanations behind the constraints and benefits of participatory approaches in local government using key features of democratic decentralisation as well as Deliberative Inclusive Processes (DIPs) for meaningful participation.

5.2 The general effect of devolution/decentralisation on implementing public participation practices

The interviews with both state and non-state participants found that prior to devolution, public participation in public policy was minimal. The major difference between pre and post devolution is the new legislation¹² which compels County governments to facilitate direct public participation in public policy and County affairs. The introduction of the new Constitution and other legislation providing opportunities for public participation in public policy has impacted positively increasing the number of opportunities and levels of participation than previously. There were challenges when it came to participation by ordinary citizens in fiscal policy, budgeting and planning as illustrated by the following quotation from a civil society interviewee who explained that:

The budget process was once covered in mystery and the government controlled the entire process from formulation to implementation often with serious consequences – Oversight officer, TISA

¹² Participation Legislation is outlined in the introductory chapter and in chapter three

Interviews with all 5 civil society organisations¹³ agreed that public participation before the introduction of devolution as ‘episodic’ and ‘restricted’ to identifying projects for Local Authority Service Delivery Action Plans (LASDAPs) funded by a miniscule portion of decentralised funds known as the Local Authority Transfer Fund (LATF). Since the devolution of funds to local government, the major difference between pre and post devolution is the new legislation which compels County governments to facilitate direct public participation in all and not just some public policy and County affairs. In post devolution Kenya, local government is now funded by a significant amount of devolved funds as opposed to smaller budgets previously allocated for a specific service delivery project through the LATF. Shelly¹⁴, a Sub County official, commented in an interview “public participation is a big part of the Constitution and has cut across everything, there is nothing I can do now without public participation.”

Interviewees from civil society organisations all noted increased levels of participation since devolution and the introduction of participation legislation. The Institute for Legislative Affairs (ILA) during an interview reflected on their experience of drafting and monitoring legislation and spoke of “a turn-around in attitudes” whereby previously policies were being passed without participation or consultation but since the introduction of participation legislation, it has created incentives and obligations on the part of local government to implement public participation before adopting policies. According to Chapter 12 of the *PFM Act*, County governments cannot pass public policies, budgets and plans without conducting public participation which in turn compels County governments to facilitate participation. This has somehow increased levels of commitment within local government to consult the public more pertaining to an entire County government budgets and plans. An attitude and commitment which was lacking previously. Figure 1 identifies a strong and committed local government as a necessary feature for the successful implementation of any decentralisation policies or mechanisms.

Commenting on implementation of participation meetings during an interview Sub County official Tom stated, “we do it because we have to, it is the law.” Martha, another Sub County

¹³ Interviews with CSOs include NTA; IBP; IEA; ILA and TISA (See Table 5 in Chapter 4 and Annexure B for a full list of CSO interviewees)

¹⁴ Pseudonym – The use of pseudonyms for county officials is explained in section 4.7 of Methodology chapter. Please refer to Annexure B1 for a complete and detailed list of pseudonyms

official spoke at length about her duty to engage citizens “because it is their (citizens’) Constitutional right.” Legislation has provided sufficient detail against which performance of officials can be measured against and held accountable as clearly stated by one official during an interview:

We have public participation on the County budgets and plans...it is part of the Constitution and it is also in our performance contracts –William, ward administrator.

Without public participation, County government’s public policies, budgets and plans can be challenged which empowers citizen voice and demand for participation. The fear of accountability driving the implementation of public participation by officials was confirmed by interviews with civil society who referenced a successful court challenge of the 2014 *Kiambu Finance Act* by business owners in Kiambu County due to the County government’s failure to implement public participation on the Finance Act.¹⁵ The judgement found that the Kiambu County government did not adequately consult the public on the *Finance Act* and it was thus annulled by the High court (High court of Kenya Nairobi, 2015). The court judgement ordered the County to restart the process by implementing public participation as prescribed by legislation.

This demonstration of accountability has further reinforced the obligation on the part of officials to implement public participation. Referencing the case of Kiambu County, the Institute of Legislative Affairs (ILA) linked the increased levels of participation and change in attitude on the part of public officials to the recent legislation stating in an interview:

We cannot say there was no public participation before devolution but we were dealing with officials who were not willing to be transparent about governance matters...since legislation there is an entire 360 degree around this attitude...people can go to court now to challenge them and defend their rights as enshrined in the Constitution – Former CEO of Institute of Legislative Affairs.

Although public participation legislation has created obligations and provided citizens with opportunities and mechanisms to participate in public policy, legislation does not automatically guarantee its implementation or its effectiveness. The partnership with community participation and local government is not always successful and there is often a gap between

¹⁵ Judicial Review Case 434 of 2015, Republic v County Government of Kiambu Ex parte Robert Gakuru & another [2016] eKLR accessible at <http://kenyalaw.org/caselaw/cases/view/121953/>

laws governing decentralisation and participation and what is practice (Bland, 2000; Brinkerhoff et al., 2007).

Although public officials are aware of their obligation to implement public participation unlike in the past, they have cited the unrealistic and costly nature of implementing public participation for all public policy processes. The law mandates that the County government facilitate participation in all County affairs, budgets and plans. The findings revealed that the Nairobi County government facilitates participation of all County budget and planning processes but not at all levels of decentralisation. For example, NCC Public Participation Bill proposed facilitation of public participation of the *County Budget Estimates; County Budget Review Outlook Paper (CBRoP); County Fiscal Strategy Paper (CFSP)* and the *County Annual Plan* at the County, Sub County, ward and village levels. All County officials and civil society members interviewed confirmed that the *County Budget Estimates* is the only policy document to which public participation is implemented annually at all three decentralised levels. Implementation of public participation of the CFSP and CBRoP is implemented annually but participation is centralised and held at the County level only. Whilst public participation on the *County Annual Plan* is implemented at all three levels, participation of County plans is not facilitated annually as legislated but after every 10 years when compiling the *County Integrated Development Plan (CIDP)*. According to the chief Sub County administrator public participation around the county plan through the CIDP is sufficient and there is no need for annual meetings:

There is currently a 10-year county integrated master plan for 2015 -2025 and citizen forums for this plan have already been conducted so there are no annual citizen forums around the county plan – Chief Sub County administrator

Members of civil society organisations the Institute for Social Accountability (TISA) and National Tax Payers Association (NTA) stated that the signing of the Nairobi County's public participation Bill into law was delayed by the Nairobi County Governor and was returned to the assembly citing the costly nature of the Bill. The Governor cited the unrealistic and costly nature of implementing public participation for all public policy processes at all three levels.

Nairobi County is among the many Counties who revised their County specific legislation because the legislation was 'overly ambitious' and 'too costly' for the government to afford – Oversight officer, TISA.

Limited finances and lack of clarity of functions are also typical problems facing transitioning or devolving government units (Dabla-Norris, 2006). This interview data highlights the

unavailability of sufficient financial resources as a reason for lack of commitment to implement participation legislation at the sub-national levels. A key feature identified in Figure 1 for any decentralisation policies to be successfully implemented is that local authorities must be capacitated with sufficient human and financial resources. CSOs TISA and NTA worked together with County officials on how they can make the draft County *Public Participation Bill* more affordable and less costly by revising their demands and expectations. Interviews with civil society organisations IEA and the Commission for Revenue Authority (CRA) pointed out in frustration:

What good is legislation when there are currently no resources or mechanisms to implement it? – Programme Officer, IEA.
We have good public participation legislation, but the cost of public participation is a big issue – Commissioner, CRA.

According to the former CEO of ILA, the Constitution, the *PFM Act* (2012), the *County Government Act* (CGA) of 2012 and the Nairobi County public participation legislation of 2015 as well draft national public participation legislation is not clear on the cost of implementation. Interviews at the CRA and The Institute of Development Studies (IDS) highlighted the challenges of limited finances and lack of clarity of functions with legislation as typical problems facing transitioning or devolving government units. According to Professor Mitullah of the IDS “realistic and affordable costing can only come after clarity of functions.” Interview with the CRA commissioner spoke at length about their challenge as a commission to assist with costing for public participation function in a context where officials were not aware of the function of participation and their role in fulfilling it.

Observation notes of discussions held at the capacity building workshops with Sub County administrators indicated that they were not clear on all the participation provisions and some were not aware of the existence of a County participation legislation (Calla Research Report, 2016.) In an interview with Martha, a Sub County official, she maintained that although she was knowledgeable about public participation provisions she was not knowledgeable about how to implement the legislation. She argued:

We do it (public participation) because it is provided for the in the Constitution but we don’t know how to go about (implementing) it... – Martha, Sub County administrator.

Participants at the capacity building workshop spoke openly about their lack of capacity to understand the legislation as well as to implement it. In discussions, workshop participants

stated the need for further training to better equip them with skills to facilitate and undertake public participation at the decentralised levels. Issues concerning capacity among officials are explored further in section 5.4.1 of this chapter.

Interviews with both CSO and public official participants¹⁶ indicated that legislation had also created many opportunities to participate in all public policy formulation processes. This in turn had created fatigue and confusion amongst citizens and County officials resulting in poor implementation. During the capacity building workshop, ward administrators openly admitted to experiencing participation fatigue and to deliberately ignoring some of the messages and calls from the County Executive due to too many requests from 11 different sectors to organize public participation meetings before planning. These sentiments were further confirmed by interviews with civil society organizations that all alluded to the very real challenge of participation legislation creating ‘participation fatigue’ or ‘too many opportunities to participate.’

There is an expectation for officials and citizens to engage in multiple participation forums discussing the same matters but with different stakeholders at different levels. In an interview with a civil society organisation, The International Budget Partnership (IBP) gave an example of how citizens are expected to participate in several County budgets, policies and plans at different levels at different times with County officials then once again with County assembly members on the same budget or policy document. This has resulted in confusion, participation fatigue and public participation being too costly to implement. See figure 6 below for the participation calendar for 1 financial year.

¹⁶ Interviews with CSOs include NTA; IBP; IEA; ILA and TISA and interviews with public officials include 9 Sub County administrators, 2 ward administrators and 1 Chief Sub County Officer (See Annexure B for a full list of interviews)

Figure 6: Public Participation Year Planner



Source: Taken from page 11 of the Calla Research Capacity Building Report, 2016. Each public participation phase is undertaken separately by both the County Assembly and the County Executive.

An additional complication is that not only does the legislation offer up too many opportunities but also too many bodies are now implementing participation. During interviews with the CRA and IDS commented:

The County Executive does its own participation and it finishes and then the County assembly does its own public participation on the same document to the same people...some of the progressive Counties have said why can't we do this jointly? – Commissioner, CRA.

Participation fatigue is a real thing and it can be avoided, we don't need to participate in all documents at all times at all levels. It's unrealistic – Professor Mitullah, IDS.

Both the IDS and IBP cited the problem of legislation mandating multiple bodies with the responsibility to facilitate public participation in governance. Furthermore, analysis of legislative documents highlighted that in addition to having the County Executive, County assembly and the County Budget Economic Forum (CBEF) facilitating public participation on the same policy documents, public participation fatigue will be felt even more acutely in urban areas such as Nairobi when the *Urban Areas Act* is passed. Article 184 of the *Constitution of Kenya* states that “national legislation shall provide for the governance and management of urban areas” and shall in particular “provide for participation by residents in the governance of

urban areas and cities.” This participation will be facilitated by another participatory body called the *Urban Areas Board* consisting of County government and non-state representatives meant to facilitate public engagement on the same and other policy documents. The *Urban Areas Act* was revised in 2016 to align it with the establishment of the devolved local government system. At the time of study, the *Urban Areas Board* in Nairobi County was yet to be established.

The findings from interviews with civil society organisations such as NTA and IEA who are working in different Counties throughout Kenya recounted the difference between public participation in urban and rural areas. CSO Interviewees from the NTA and IEA highlighted the difficulty of legislating and introducing a new practice as opposed to legislating a practice that is already embedded within Kenyan culture. Interviewees pointed out the existence of the presence of long-standing cultural structures of engagement such as *barazas* or public meetings called by the chief or the village elders. This cultural practice made implementing public participation in rural areas much easier than implementing public participation in the urban areas. As a result, rural Counties were said to be faring better in implementing public participation due to the presence of these pre-existing lower level structures and engagement practises. Unlike urban areas such as Nairobi County where such structures do not exist, devolution is introducing further structures at the lower level plus a new culture of participation which has been so far difficult to instil and to be taken up by citizens in urban areas.

This section has shown the important role that participation legislation in increasing and sustaining levels of commitment to implement decentralised responsibilities such as public participation at the local government level. This is an essential feature identified in Figure 1 for the successful operationalisation of decentralisation. On the other hand, although public participation legislation has created obligations and provided citizens with opportunities and mechanisms to participate in public policy, legislation does not automatically guarantee its implementation or its effectiveness. Other factors such as political, socio-economic conditions, design principles impact on the effective implementation and functioning of participatory governance mechanisms in practice (Barrientos, 2007; Goetz and Gaventa 2001; McGee et al, 2003; Reid, 2005; Russell-Einhorn, 2007). This section has identified the absence of participation culture in the urban areas as well as limited financial resources as a constraint on the implementation of public participation legislation. Figure 1 also lists sufficient financial resources as necessary in order for any decentralisation policies to be effective.

The following sub sections will continue to explore the realities of implementation vis a vis participation legislation. It will also explore the extent to which key features identified as essential for successful outcomes for any democratic decentralisation policies, mechanisms and institutions exist within Nairobi County's legislative design, participatory approaches and institutions. The main features which Nairobi County will be assessed against include the degree of decentralised power; strong financial and human resource capacities; willingness by ruling elite/Executive to transfer power and responsibilities to lower levels; support from members of the local assembly and accessibility of information and key policy documents.¹⁷

5.3 Implementing public participation: the roles and responsibilities of county officials and structures

Devolution introduced Sub County administrators as well as ward County administrators whose role is to facilitate public participation at the lower levels and make local government more accessible to the people. According to the *CoK; PFM Act; County Government Act*, County governments are responsible for ensuring participation of ordinary citizens in County budgets and plans. In operationalizing this mandate, Sub County administrators and ward administrators have been given a central role in ensuring implementation of citizen participation. Section 50 (3) of the CGA and Section 2 (10) of the *Nairobi City Public Participation Act* (2015) state that:

Decentralised units, which consist of the Sub County, ward and village administrators shall promote, facilitate and coordinate citizen participation in their administrative units.

Analysis of interviews with civil society organisations¹⁸ and the Chief Sub County Administrator revealed that village level administration (personnel and structures) was yet to be established in the County, leaving Sub County and ward administration to undertake citizen participation at the ward and Sub County levels only.

Interviews and analysis of discussions at the capacity building workshop for Nairobi County Sub County and Ward administrators revealed that the roles and responsibilities of Sub County and Ward administrators in terms of citizen participation in public policy is predominately and for some entirely limited to mobilization of citizens within their jurisdiction to attend citizen

¹⁷ See Figure 1 in Chapter 2 section 2.3 for the full list of key features of democratic decentralisation operationalized for the purposes of this study

¹⁸ CSOs here include: The Institute of Social Accountability (TISA), National Tax Payers Association (NTA) and The Institute of Economic Affairs (IEA).

forums¹⁹ on the budget. Sub County and Ward administrators are not the officials facilitating citizen forums as legislated.

Evidence collected from interview data from Nairobi County officials and analysis of discussions held by County officials at the capacity building workshop²⁰ revealed limited involvement of Sub County and ward administrators in other capacities beyond mobilization. According to the Chief sub county administrator, Sub County and Ward administrators play a very important role in terms of mobilization which he described in an interview as follows:

All stakeholders within the ward are invited to attend citizen forums. The role of Sub County and Ward administrators is to send out information to all residents in the ward by way of posters, notice boards, newspaper notices in public or popular areas such as the market. The second thing they must do in terms of mobilization is to encourage residents to attend forums – Chief Sub County Administrator.

The facilitation or implementation of citizen participation as described by the Chief Sub County administrator is a function which is centralized within the County Executive headquarters more specifically the County finance directorate and which includes the following host of activities i) setting dates for participation ii) funding the citizen forums iii) facilitating discussion iv) dissemination of information and key documentation v) collection of input vi) providing feedback and lastly and most importantly vii) making final decisions on budget and planning priorities.

These sentiments were further confirmed during in-depth interviews with Nairobi County officials and during the capacity building workshop²¹, when Sub County officials were asked about the extent of their involvement and their roles and responsibilities in facilitating implementation of participation provisions and opportunities. Extracts from some interviews with the administrators stated:

My role as far as public participation goes is mobilization to ensure the involvement of citizen in County affairs – Keith, Sub County administrator.

¹⁹ The term ‘citizen forums’ is used to refer to public participation meetings on the County Budget Estimates organised by the Nairobi City County (NCC) government.

²⁰ Interviews with Nairobi County officials include 9 Sub County administrators and 2 ward administrators (See Annexure B for full list of interviewees). Capacity Building workshop was attended by all 17 Sub County administrators and 43 out of the 85 ward administrators

²¹ Capacity Building workshop was attended by all 17 Sub County administrators and 43 out of the 85 ward administrators. See Methodology Chapter 4 for more detailed information on the workshop.

There is a team from City Hall (County Executive headquarters) that comes to lead the budget forums. Our main purpose on the ground is to mobilize ensure there is high turnout and ensure that the public is aware that the meetings are happening – Paul, Sub County administrator.

With regards to public participation, that is still under the control of city hall (Nairobi County Executive). My role is mostly to mobilize– Colin, Sub County administrator.

In terms of facilitation of citizen forums at the ward level, we are not the facilitators, the County Executive are the facilitators of the budget forums – William, ward administrator.

Basically, my role is to mobilize and provide feedback to the people concerning what the government is supposed to do – Herbert, Sub County administrator.

In response to a question asking them to state what their role was with regards to implementing public participation, 6 out of the 7 ward administrators who participated in the online questionnaire described their roles and responsibilities in facilitating public participation as ‘mobilization of citizens to attend participation forums’ and not facilitation of the forums.

During the capacity building workshop, when asked by the workshop facilitators about what they understood their roles to be with regards to citizen participation, Sub County and Ward administrators responded by stating that the County Executive did not provide them with opportunities to facilitate public participation because most of their time their duties are relegated to mobilization. Ward administrators present at the meeting expressed that they are not the facilitators for citizen forums and that staff from the County office specifically the finance directorate facilitated the forums.

Participants at the workshop indicated that the roles of Sub County and ward administrator’s roles had been formally limited to that of mobilization by the County Executive. Among the list of challenges or problems captured in the *Report on the Capacity Building Consultancy for the Nairobi City County* by Calla Research Consulting Services, is “the use of top down approach in public participation whereby ward administrators seem to only coordinate citizens participation at the tail end of the processes...” (Calla Research Report, 2016: 26). This is despite that the NCC *Public Participation Act* no 11 of 2015 clearly provides a much larger role for sub county and ward administrators beyond mobilization (Calla Research Report, 2016). Civil society organisation TISA, which is monitoring the implementation of public

participation stated in an interview that among their findings is that “ward administrators are not the ones implementing public participation as stipulated in the law.”

Prior to devolution, public participation in public policy was through the Local Authorities Service Delivery Plans (LASDAPs) which were introduced in 2002 and scrapped in 2010 (Rocaboy et al., 2013). LASDAPs gave citizens an opportunity to participate directly in planning and budgeting for a certain portion of transferred funds from national government under the Local Authority Transfer Fund (LATF). A number of studies reviewing public participation via LASDAPs between 2002 and 2010 found its influence on service delivery was minimal and fraught with problems such as poor leadership and administrative capacity and insufficient decentralisation of power and resources to local authorities (Devas and Grant 2003; Hendriks, 2010; Muriu, 2014). Under the newly devolved local government frameworks, the Kenyan government introduced new laws that reformed citizen participation in public policy in an attempt to address the shortcomings experienced previously such as the centralisation of administrative power and resources.

All County officials interviewed, with the exception of one, stated that they had worked in the previous administration (Nairobi City Council) and had experienced implementation of LASDAP. When comparing their administrative roles during the LASDAP process to their administrative role under the new Constitution, there seemed to be very little difference. 8 out of the 9 Sub County administrators interviewed explained that during LASDAPs the role of the ward administrators or division manager as they were known at that time was just to mobilize people. Reflecting on and comparing the citizen participation opportunities pre and post-devolved Kenya, Herbert, a Sub County official explained “we would just be given posters from city hall from the planning department...as the ward administrator I would just attend the meeting.” Other officials lamented how in the past participation was centralized and their role as ward administrators was minimal. The new Constitution was meant to change this and create a greater role for administrators, but it would appear that in reality little had changed. All Sub County officials interviewed pointed to a reluctance by County Executive officials to decentralise roles and responsibilities to officials at the lower levels, with one ward administrators plainly stating in an interview:

I used to interact with LASDAP from time to time... and that time it (participation) was centralized at City Hall. Today that function has been devolved by the Constitution but City Hall (Nairobi Executive government) does not want to devolve – William, ward administrator.

The findings from interviews with both state and non-state study participants²² as well analysis of discussions at the capacity building workshop²³ suggests that the implementation of public participation legislation is being constrained by the Nairobi County Executive's failure to devolve some of the roles, responsibilities to further decentralised units at the Sub County and ward levels. According to Figure 1, in order for decentralisation policies to be successfully implemented, officials at all levels must be willing and able to share power, authority, information, responsibilities and resources.

Another key feature identified in Figure 1 as essential for the effective implementation of any decentralisation programs or policies are i) the transfer of power and resources to all local state actors and entities such as decentralised units ii) central government willingness to offer resource assistance, skills transfer and capacity building. During the capacity building workshop participants pointed out that decision making power has not been devolved to the lower administrative levels and their lack of decision making power was exposing them to violent confrontations and physical threats. Sub County and Ward administrators spoke of their challenges of often being confronted by angry mobs who are upset that their views keep being collected without any outcomes (Calla Research Report, 2016). Ward administrators attending the workshop expressed that when mobilizing for citizen forums, they are unable to provide satisfactory responses as to why previous inputs were not taken or to explain why certain decisions were taken since "the seat of power" or "decision-making power" is currently centralised in the County offices (Calla Research Report, 2016). This sentiment was again expressed by all County officials interviewed with one clearly stating:

Citizen forums are usually attended, scheduled and managed by the County office. Officials of the County treasury attend the citizen forum at the Sub County level, take down minutes and then they are the ones who are responsible for implementing and making final decisions about priorities discussed – Keith, Sub County administrator.

Due to the centralisation of decision-making power at the County Executive level and the lack of proper deliberation over public policy at citizen forums, both citizens and administrators are sceptical of the forums, viewing them as powerless and formal spaces for rubber stamping budget decisions already taken by the Executive. Sub County and Ward administrators taking part in the capacity building workshop described their difficulties in getting participants to

²² See Annexure B for full list of interviewees

²³ Capacity Building workshop on public participation in Nairobi County was attended by 17 Sub County administrators and 43 ward administrators see Chapter 4, section 4.4.6 for detailed information on the workshop.

attend because citizens view the participation meetings as ‘rubber stamping’. Workshop participants said they were yet to see evidence to suggest that citizen input is being taken seriously and influencing County budgets and plans (Calla Research Report, 2016). Participants of the workshop also expressed that they felt they were being used by the Executive to just rubber stamp the work of City Hall and entrenching central bureaucracy which has been carried over into the new dispensation. Workshop participants also pointed out that it felt like they had not been any real change, but they were just perpetuating the old system by being made to toe the line by the County Executive (Calla Research Report, 2016).

5.3.1 The power and politics of implementation

The majority of interviewees (both state and non-state participants) alluded to the County Executive’s centralisation of power, roles, resources, capacity and information as politically motivated and a deliberate move to resist devolution by disempowering decentralised units and maintaining the power and status quo of the ruling elites.

In trying to make sense of why they are receiving so little support from the County Executive, 9 of the 11 Sub County and ward administrators interviewed expressed their perception that certain interests within the ruling elite are working against devolution. Sub County administrators feel that the challenges they are facing are as a result of the County Executive’s deliberate sabotage of the decentralisation process by not devolving responsibilities and by not allocating the Sub County sufficient resources and capacity building support. Administrators do not feel there is a justifiable reason or explanation as to why their roles and resources have been limited. Some administrators reasoned that their challenges were politically motivated as follows:

To this day not all Sub County offices have electricity and there have been no Sub County offices that has been connected to the internet which makes me think that there are some sectors who do not want us to devolve... people are used to the same system of doing things like finances are still (centralised) in City Hall so people don’t want the finances to come down to us. They want the status quo to remain ...It all revolves around finances and that is the major problem – Martha, Sub County administrator.

I do not understand why we as administrators have not been allocated a budget because the people who work in County finance at headquarters are given facilitation budget, but they don’t want to trickle that money down, they want to do the facilitation themselves maybe for their own personal benefit I do not know – Shelly, Sub County administrator.

During workshop discussions, Sub County and ward administrators raised concerns that they were not consulted during the formulation of the NCC *Public Participation Act*. The Sub County and Ward administrators felt that by excluding them, the County Executive government were manipulating the legal frameworks to suit their interests. They also expressed the perception that legal frameworks despite being in existence, are not always implemented as they should for the very same reason. None of the participants provided hard evidence of corrupt activities or personal benefit by Executive officials but the negative perceptions do signal high levels of mistrust and suspicion between the two levels of County government – the Sub County administration and the Executive.

Findings from interviews with County officials and civil society organisations highlighted how public participation is a contested domain, where ruling elites fight for power and influence by controlling who facilitates public participation.

In Kenya, participation is a very political process. Traditionally areas with higher levels of political energies or activities have high levels of public participation. The Executive use public participation to joust for public positions, power as well as national political agendas. It can also be ethnic driven, especially where political contestation is highest – Programme Officer, NTA.

Interviews with civil society organisations NTA and TISA expressed that feelings of mistrust and suspicion also lay on the side of the County Executives who are said to want to oversee and implement public participation themselves and not entrust it to lower officials. The County Executive worry that the lower officials might grow in popularity and influence because of their visibility and proximity to the people. Another view is that the Executives worry that the matters being discussed are of high importance and might influence votes negatively.

Since devolution, citizens are able to directly vote for the appointment or the removal of a County governor. This therefore means that the issue of votes is no longer a concern of County assembly members but also of the County Executive. In an interview with a civil society official explaining the animosity between the County Executive and the County assembly, it was relayed that since devolution “whoever now controls participation controls the vote.” The relationship is not always acrimonious and can be mutually beneficial. MCAs can use the participatory process for political gain, but officials can also use MCAs to facilitate mobilization. A Sub County official also backed this view during an interview by emphasising how politically contested the citizen forums or public participation meetings in his area were

due to the large number of people who reside in the area who also represented a large number of votes:

For Kibera slum we manage the forums and we call them (residents) to attend the forums. Expansive slums have political power, because people concentration is high, politicians see the political potential in Kibera and they use them (citizen forums) for votes so they (MCAs) reach out to us (when it's time to mobilize for public participation) in order to campaign for votes. We use the politicians to mobilize people – Kwame, Sub County administrator.

The political importance of facilitating participation is demonstrated by the dispute between Executive and the assembly over whose responsibility and jurisdiction it is to facilitate public participation. According to civil society, public participation is a vehicle by which officials and members of the assembly are visible, gain popularity, obtain influence and potential votes from the populace. With the introduction of direct forms of public participation and the phasing out of Constituency Development Funds (CDFs) plus the centralisation and management of all County funds by County government, the CSO organisation IBP notes that the “assembly members feel that their space is being encroached upon and their powers diluted.” Public participation is now contested by the County Executive and the County assembly resulting in the County assembly not fully supporting the County *Public Participation Act* and not approving sufficient funds for the County government to do public participation.

The 3rd *Annual National Devolution Conference* organised by the Kenyan National Government which happened in April 2016 highlighted this tension between the Executive and the assembly members over resource allocation, influence and power when the assembly members refused to attend the conference to protest what they deemed to be marginalization of assembly members in governance (Business Daily, 2016). Among the many issues being disputed included the role of the County Executive in facilitating public participation as assembly members considered it largely their domain and responsibility. According to TISA and NTA who made submissions on the draft bill, The NCC *Public Participation Act* was also delayed in its adoption and approval because the Executive and assembly struggled to agree on the budget allocations. Interviewees from TISA and the NTA pointed out that their analysis of county budgets show that County Executive led public participation is usually awarded a smaller budget compared to County assembly led public participation as indicated by the CRA. The capacity building workshop report captured the views of MCAs describing their relationship with the County government as acrimonious and uncooperative. The tense relationship between the two branches of government is attributed to assembly's ability to hold

the Executive to account (Calla Research Report, 2016). The workshop report also highlighted the County assembly's frustrations with the County Executive's failure to report on the status of public participation in the County as mandated by section 92 (2) of the *County Governments Act* since it was adopted in 2012.

Civil society organisation NTA gave examples during interviews of some Counties in which they have worked such as *Nyeri* County who have managed to resolve the contestation for public participation implementation between the two branches of government by setting aside competing interests and agreeing to roll out public participation jointly in order to cut costs and prevent participation fatigue for effective participation. This however, has not been the case in Nairobi County. As of August 2016, when the interviews with public officials were conducted there was no official agreement in place for joint public participation initiatives between the County Executive and members of the County assembly (MCAs). When asked about their experience with working with MCAs during one on one interviews, 9 of the 11 interviewed Sub County and Ward administrators spoke of a lack of co-operation and a competitive attitude between the County Executive and county assembly members. A Sub county administrator alluded to confrontational behaviour with the Executive as a popular campaign strategy applied by MCAs at public participation meetings.

Sub County officials described their experiences with MCAs as follows:

My experience with MCAs is that it depends on the individual. Others are supportive, and they come to the public forums, others won't come because they feel that you as the administrators you are not supposed to hold participation meetings. There is that competition – Colin, Sub County administrator.

What is important for them is the voters.... So they sometimes have to be aggressive and confrontational with us officers so that they can maintain their popularity – Paul, Sub County administrator.

Interviews with County officials also revealed a lack of trust fuelling the lack of cooperation between County Executive and County assembly members as County assembly members feel threatened or uncomfortable by citizens input that at times make them look incompetent. Such input is often perceived by the MCA as a deliberate ploy as one official described it “to make the MCA look bad.” Public participation meetings are therefore described by officials as “heavily politicised” as opposed to neutral spaces where citizens can freely submit their views. The MCAs therefore consider these meetings as opportune moments for opponents as well as

an opportunity for citizens to exercise accountability which are both considered to be very problematic for MCAs re-election goals. Interviews with Sub County officials and civil society confirmed this by saying:

People use those forums as a way of holding them accountable. Also the people who are aspiring to be candidates find these meetings as a way to get at their opponents so sometimes it turns political turning them into forums for campaigning somehow – Herbert, Sub County administrator.

Maybe some of the people who turn up at these forums are opponents of the MCAs interest ...so during presentation and during those meetings, they are playing politics. So you will definitely find a problem because the member of the County assembly will not be happy with you the administrators because it appears like you organised these people to make him look bad – Kwame, Sub County administrator.

The competitive behaviour between MCAs and County governments is also fuelled by the current phasing out of CDF funds which allowed MCAs to implement service delivery projects and to be very visible to the community. Discussions at the capacity building workshop by ward administrators highlighted attempts by MCAs to now take over the role of the Executive in their quest to boost visibility by leading in participation and even in implementing projects themselves.

The capacity building workshop with 17 Sub County administrators and 43 out of 85 ward administrators in attendance expressed that they were struggling to implement public participation due to MCAs. This sentiment was captured in the capacity building workshop report which cited among the long list of challenges facing County administrators “political interference in public participation processes by incumbent and aspiring MCAs” (Calla Research Report, 2016: 22) and “use of politically inclined facilitators in public participation exercises initiated by MCAs, thereby antagonizing the citizens against Sub County and Ward administrators” (Calla Research Report, 2016: 26).

During the interviews all 11 Sub County and Ward Administrators interviewed revealed that they had no choice “but to call them (MCAs)” in order “to reduce political temperature” at the meetings. MCAs are considered to have the power to either “make a meeting” a success by ensuring a high turn-out or had the power to “spoil a meeting” by either disrupting it or ensuring poor attendance. The majority (9 out of 11) Sub County and ward administrators interviewed opted to work with the MCAs in order to avoid low turn-out or disruption at the meetings. According to County officials interviewed and CSOs TISA and NTA, the source of MCAs

power to mobilize and ensure a high turn-out is because of reputation stemming from the days of LASDAP whereby MCAs offered payment in cash or in kind to citizens in exchange for attending and supporting their interests at public meetings. In a desperate attempt to ensure a high turnout and by working with MCAs to mobilize, administrators hand over the agenda to MCAs which in turn undermines the goal of public participation should MCAs end up influencing public participation and decision-making processes for political gain:

MCAs are good at mobilizing and we have a good working relationship with each other. I have the support of the MCA. The MCA has played a vital role in encouraging people to attend my meetings promising goods or rewards in exchange – Keith, Sub County administrator.

We invite MCAs to attend public participation forums. They even help us set the agenda. They assist with mobilization, residents attend only if the MCA is in attendance, to reduce political temperature you have to call them. We set the agenda with MCAs and verify the agenda with people and with MCAs – Colin, Sub County administrator.

The tone politicians have set in this country especially in Nairobi is one that says: MCAs are people who are professionals in mobilizing support. So they (MCAs) engage them (citizens) by promising to buy them or give them something for instance Kshs200, then you are good to go. The MCAs and his people can come and either make your meeting a success or they will spoil it – William, ward administrator.

Because of the former culture where the residents are used to handouts, when the MCA does not have money he does not normally like attending meetings and engaging those people because after participation, they (residents) demand money – Tom, Sub County administrator.

The basis of mobilizing residents to push for particular interests of the MCAs in exchange for payment in cash or kind is tantamount to MCAs purchasing citizen voice and input. It also throws into question the extent to which the input is genuinely authentic if persons are paid to represent a particular interest or push a certain agenda.

Kenya has a history of capturing participatory spaces. A challenge that has always faced Kenya in terms of citizen participation at the local government level is that of local elite capture (Blair, 2000; Crook and Sverrisson, 2001; Dreze and Sen, 1996; Manor, 1999; Moore and Putzel, 1999). Studies of Kenya's LASDAP process found elite capture as an obstacle to achieving genuine participatory governance (Devas and Grant, 2003; Hendriks, 2010; Lubaale et al., 2007; Miriu, 2014; Mitullah, 2004; Oyugi and Kubua, 2008). A more recent study by Rigon (2015) on the participation of citizens in an urban development programme in Nairobi revealed that issues of elite capture still persisted in local governance and citizen participation as do the findings of this study. The findings of this section also point to high levels of mistrust between

MCAs and the County government and also between the County Executive and the Sub County administration. The lack of trust has resulted in an unwillingness by the County Executive to transfer the necessary responsibilities, resources, skills and capacity to the Sub County level. The willingness by the County Executive to do the above as indicated in Figure 1 is required for the successful implementation of public participation at the lower levels. The lack of trust between MCAs and the County Executive has meant a lack of support from political and assembly leaders which is an essential feature listed in Figure 1 for the successful decentralisation of planning and decision making.

5.4 Implementing public participation: financial and technical resources

All Sub County and Ward administrators interviewed as well as the participants at the capacity building workshop further expressed their challenges with implementing citizen participation because the County Executive also had not devolved sufficient power, resources and capacity to facilitate participation as prescribed by law. In addition to the extremely limited role of mobilization, Sub County and Ward administrators say they do not have adequate funding to fulfil their duties. A lack of resources to facilitate public participation as well as to implement projects was mostly identified as a major stumbling block for meaningful and inclusive participation (Calla Research Report, 2016).

Sub County and Ward administrators are not directly given a budget to manage for the purposes of mobilizing or to fulfil their legislative assigned role of facilitating public participation. The Nairobi Sub County administrator confirmed during an interview that citizen forums on the budget are organized, funded and administratively managed by the County Executive.

A public participation budget is set aside by the County finance directorate for each Sub County and for each sector for citizen forums to happen in each quarter. The participation budget is to provide for food and water at the forums. The budget is not for providing transport (to forums) or the printing of documentation. In addition, any public participation meetings outside major citizen forums such as on the budget are not necessarily budgeted for as they are scheduled as and when necessary – Chief Sub County Administrator.

According to the CRA, ‘County governments are not budgeting adequately for participation’ and ‘mobilization is a huge part of the cost.’ These sentiments were consistent with the views expressed by administrators during the capacity building workshop where they complained that i) they are not consulted when the Executive formulates a County budget for public participation ii) they are not directly allocated a budget to manage iii) that the County participation budget does not sufficiently cover broad activities such as printing or mobilization

(Calla Research Report, 2016). Figure 2 lists key features of Deliberative Inclusive Processes (DIP's) that define meaningful participation (Pimbert and Wakeford, 2001). Discussion and presentation of positions and perspectives must be based on information and evidence. In order for that to happen, citizens must have access to information but without a printing a budget, discussions cannot be based on information and evidence.

During interviews, Sub County administrators expressed frustration with having to rely on their own resources and creativity to mobilize for public participation

I spend a lot of my money in order to mobilize because if I leave it and I don't then there will be no mobilisation, and nobody will turn up. I have to mobilize through the churches and other groups. I have to make calls, requesting community leaders to inform their people. All of that requires finance. Budgets for participation should not be an issue of begging. It should be anchored in the law, that there this money for that. Currently the county budgets don't make it clear that this is for public forums. We are just simply told – Paul, sub county administrator.

The radio and newspaper ads are paid for by City Hall directly. We don't receive a budget to do all these things, we mostly rely on our own means to mobilize – Herbert, sub county administrator.

I want to mobilize as many people as I can, but I have no resources to do so – Shelly, sub county administrator.

Furthermore, administrators at the lower levels do not have resources to implement projects raised at citizen forums, all service delivery projects are funded and implemented by the County Executive. The insufficient resources as well as the lack of decision-making power to determine resource allocations particularly for participation means that administrators are not always able to successfully mobilize large diverse groups of people to participate thereby likely to make the citizen forums less inclusive. A key feature for participation to be meaningful according to Deliberative Inclusive Processes (DIPs) is the active involvement of multiple social actors in particular the participation of previously excluded citizens. Without sufficient resources, Sub County administrators are unable to mobilize a wide range of multiple social actors.

The limited financial resources also mean they are not able to create a conducive environment for participation by offering comfortable venues, refreshments and transportation for participants particularly residing in the poor areas. The majority of interviews with both County officials and civil society organisations mentioned that Sub County and Ward administrators did not directly receive a public participation budget but that that the budget for facilitating

participation is managed by the County Executive since they have centralized the role of facilitating and managing citizen forums. However, 2 out of the 9 Sub County administrators interviewed expressed that they did receive a small portion of funds disseminated by the County finance office at city hall for the purposes of mobilization. This points to a lack of consistency in the way in which funding for public participation is managed and disseminated.

Sub County administrators and Ward County administrators present at the capacity building workshop conveyed frustration at how centralisation of resources negatively affected their ability to fulfill their roles in terms of facilitating and implementing public participation prescribed by law. These sentiments were confirmed by the following Sub County administrators and Ward administrators interviewed:

We are expected to fulfill our duties with little to no resources – Martha, Sub County administrator.

We have been trying to convene public forums, but money has been an issue because as you can see we don't have much in these offices – Paul, Sub County administrator.

We also have challenges with resources. We get some money from City Hall but it is not enough we need more resources for participation – Tom, Sub County administrator.

The inability to resource and implement citizens input makes it harder to sustain public trust and interest in engaging in the forums. This is because the County office only disseminates very limited funds for the purposes of organizing the forums and very little for the purposes of mobilizing, printing policy documents, disseminating information such as providing feedback and reporting back to the citizens on the outcomes of their input nor on the progress of budget and policy implementation. The capacity building workshop report observed that “most public participation forums lacked the inbuilt mechanisms to receive regular feedback from the public” (Calla Research Report, 2016: 9). During interviews all Sub County and Ward administrators pointed to their inability to implement the citizen input or provide feedback either due to a lack of resources or information or both. As some Sub County administrators' interviewees put it:

We need more involvement, more resources, to put into practice implementation, not just to collect input, we need to also report back on the projects we have promised to undertake – Kwame, Sub County administrator.

People say to us ‘we gave you an itemized list which you have not implemented,’ so it becomes a fight – Martha, Sub County administrator.

County officials pointed out during interviews how the lack of resources negatively influenced their abilities to report back to communities' post citizen forums. Civil society interviewees NTA, TISA and IEA argued that in the past people had bad experiences with participation because they received no feedback, or evidence of their input making an impact so that in turn created apathy. These practices seem to have continued post devolution which discourages people from attending as they see old practices being perpetuated by the County government.

Both state and non-state interviewees complained that decision making power and resources to support citizen participation in public policy had not been devolved to the lower levels of the County administration. Among the resolutions put forward by participants at the capacity building workshop is that the budget for public participation should trickle down to the Ward administration level, so that it can empower ward administrators to practically operationalize public participation and sustain it (Calla Research Report, 2016). In interviews, officials vented about how they are not entrusted with a budget to implement participation with some saying:

Public participation in the budget has not been devolved, what we are calling for is for more responsibility. If we are the ones mobilizing the people, why can't we have the budget? Because we know what our people need. You can't just come from City Hall with some water...At the end of the day we want to feel like we are part and parcel of the whole (participation) process. Not just when it comes to some aspects – Paul, Sub County administrator.

Public participation will only be successful if we are given both the opportunity and resources to facilitate and engage the public – Tom, Sub County administrator.

Interviews from the IDS and civil society organisations TISA, NTA and IEA concurred with the sentiments expressed by administrators regarding the lack of resources and pointed to the negative effects of this resource constraint. In major cities especially, Ward administrators do not really have the resources to implement public participation in each ward due to insufficient funding support from the County Executive and County assembly. Furthermore, in Nairobi not all ward administrators are able to roll out public forums throughout the ward especially in the poorer wards of Nairobi due to a lack of road and physical infrastructures necessary to hold a public forum. This has resulted in poor implementation of public participation at the ward level.

In terms of implementation of public participation in Nairobi – the County needs to take into account its diverse, highly polarized communities. Participation is not the same in rich areas as it is in poor areas. What are the differences? Some differences include poor areas don't have town halls or public infrastructure places to meet, other areas are not accessible due to bad roads. Also there is the cost of traveling around Nairobi, so it is important to

have them (forums) in as many locations as possible – Oversight officer, TISA.

The resource issue is further complicated by contestation by the County assembly over the use of direct participation by County Executive. The CRA found this to be a challenge not only with Nairobi County but in other Counties as well. The interview with the CRA describes this contestation as follows:

County assemblies say they want to be the ones facilitating public participation and hence require huge budgets for their public participation activities and give very little towards the County government – Commissioner, CRA.

Although the new Constitution provides for both direct and indirect participation, County assembly members want to solely conduct participation. Section 5.3.1 of this chapter explores in detail the issues pertaining to the contestation between the County Executive and the assembly when it comes to implementing public participation.

5.4.1 Capacity constraints

Interviews with civil society organisation and County officials²⁴ as well as participants of the capacity building workshop voiced their concerns not only about insufficient financial resources but also insufficient technical capacity to implement the participation frameworks, with one study participant stating:

Devolution requires citizens involvement in public policy and budget matters, this requires a very sophisticated level or technical capacity of engagement. So now we have opportunities to engage in highly technical processes, but the problem is there is no capacity at all levels – citizens, officials and the assembly members – Country Manager, IBP.

CSOs IBP, NTA, IEA and TISA plus an official with the *World Bank Devolution Programme* during interviews pointed out that they had incorporated capacity building activities for County officials since realizing that capacity to effectively implement participation regulations was lacking within the County governments. Budgeting and policy planning are highly technical in nature and it requires that both citizens and officials have sufficient knowledge on how to engage with budget and economic planning documents. In an interview, Professor Mitullah of the IDS remarked:

Devolution was said to have been implemented too quickly without sufficient audits, evaluations of Counties and County officials and their capacity to devolve and fulfil a particular function.

²⁴ CSOs interviewed include: IBP; TISA; ILA; IEA and NTA. County officials interviewed include 9 Sub County administrators and 2 ward administrators. (See Annexure B for a full list of interviews).

She further noted that public participation structures had to be implemented at the same time as other devolution structures such as the establishment of multiple county government infrastructure, personnel, legislation, departments/institutions, public finance management systems which resulted in other devolution structures taking precedence and being prioritized above structures such as the establishment of the joint participation body the County Budget Economic Forum (CBEF) or the employment and capacitation of ward administrators and Sub County administrators.

Another civil society interviewee from the NTA highlighted an insufficient national capacity building program and resources during and post the devolution transition process and that County government relied on national government to provide capacity as the Constitution assigns this role to national government. She did however also note that “capacity building is too big an item to just leave for one level of government.” Due to the fact that devolution was taken up without proper planning, as a result there appears to be a capacity gap within County government when it comes to budgeting and economic planning for the County. As listed in Figure 1, for successful decentralisation central government must be willing and capable to offer the necessary resource assistance, skills transfer and capacity building to lower levels.

Capacity building is considered too big a responsibility for one level of government to fulfil. Donors and civil society are now working in the area of capacity building and the World Bank had this to say in an interview:

I work with the Kenya Accountable Devolution Programme, it looks at fiscal implications of devolution, it looks at public financial management, capacity building and HR systems in Counties. We have found that Counties are in need of technical, institutional and financial capacity in order to engage citizens in a more meaningful way. Right now, we are working to build those capacities – Social Development Specialist, World Bank.

The capacity building workshop with Sub County and Ward administrators confirmed and revealed the issue of insufficient capacity to implement participation on public policy. The capacity building workshop itself was funded by development partner *Oxfam Great Britain* for purposes of supporting capacity building efforts for officers of the Nairobi County Executive, Sub County Administrators, Ward Administrators, and Members of the Nairobi City County Assembly. The Nairobi County government did not have resources to undertake and fund their own capacity building efforts hence the assistance from development partners such as *Oxfam*. The capacity building effort focussed on “budget processes, public participation and

mainstreaming of gender in budget and budgeting, public participation and Governance” (Calla Research Report, 2016: 6). Both Sub County and Ward Administrator participants at the capacity building workshop pointed to a lack of understanding when it comes to facilitating public participation in public policy and to the lack of capacity building effort by either national or county government. The capacity building workshop report stated, “capacity building for public officers and civic education for the general public have not received sufficient attention in County planning and resource allocation” (Calla Research Report, 2016: 9).

Among the problems identified by both Sub County and Ward administrators during the capacity building workshop is the “lack of sensitisation and awareness on the Constitution and legal provisions underpinning public participation” (Calla Research Report, 2016: 19). During the workshop, the 43 ward administrators and 17 Sub County administrators in attendance expressed that they especially lacked the capacity to understand legal frameworks and the budget process particularly on entry points for inclusion of the public in planning and budgeting. Furthermore, Ward administrators attending the workshop expressed that because they were excluded from the formulation of the Nairobi County *Public Participation Act* no. 11 of 2015 as well as the formulation of the County budget process, it was therefore challenging for them to facilitate citizen participation in the budget process as prescribed by the *County Government Act* of 2012 and the *NCC Public Participation Act of 2016*. The County *Public Participation Act* is legislation which the administrators themselves were neither privy to its formulation nor knowledgeable about until the capacity building workshop (Calla Research Report, 2016).

In one on one interviews with Sub County administrators, one official corroborated this lack of clarity and understanding which has resulted in lack of uniformity and consistency in the way in which they as administrators consult and conduct participation with citizens on matters of public policy.

So you find that because of lack of a clear structure on how to engage them (citizens), because of the lack of clarity regarding the modalities of engaging the citizens, public participation is not well resourced nor is it well structured
– Starehe Sub County administrators.

Moreover, half of the Sub County administrators interviewed indicated that they not only lacked access to the public policy documents but also the capacity to understand and consult citizens on the policy documents and proposals.

We do not even have copies of the budget papers. We don't have those documents so we don't even know what they are talking about. Even if copies of the documents are online the problem still is that they (County Executive) have not taken us through those documents— Kamukunji Sub County administrators.

When we have those public participation meetings there is usually no discussion on the actual budget and budget documents because we have not been involved or capacitated in the budget process and budget making so I am not even able to understand and explain to the people how to discuss the budget – Langata Sub County administrators.

According to Deliberative Inclusion Processes (DIPs) one of the key requirements for meaningful participation to occur is that participation must be a “discussion and presentation of positions and perspectives based on information and evidence” (Pimbert and Wakeford, 2001). The majority of participants at the capacity building workshop openly admitted that that they felt uncomfortable sharing public policy documents such as budget documents and other policy documents produced by the County government such as the *County Budget Estimates*, *County Fiscal Strategy Paper (CFSP)* and *County Budget Review Outlook Paper (CBRoP)* because they lacked the skills and capacity to take citizens through these documents (Calla Research Report, 2016). All interviews with civil society and County officials confirmed that Sub County and Ward administrators have not mobilized or been involved in implementing participation in the CBRoP and CFSP and do not facilitate participation on these policy documents at the lower levels. These are policy documents being formulated by the County Executive alone and public participation for these are only happening at the city centre of Nairobi. Devolution has happened by name, but power, information and consultation has only been partially devolved to the lower levels.

5.4.2 Access to information

According to the Part III, Section 12 of the NCC *Public Participation Act* of 2015,

The County shall provide and publicize timely access to information to enable the participation of citizens in a timely manner.

The capacity building workshop report also noted that access to information was still inadequate and that “the public did not have sufficient information to support informed public participation” (Calla Research Report, 2016: 9). Interviews with County officials and participants of the capacity building workshop lamented the fact that the County Executive did not devolve roles, responsibilities, resources, capacity as well as information to Sub County and Ward administrators. Interviews with civil society officials from TISA and NTA ascribed problems with implementing public participation at the Sub County and ward level to ‘low

capacity of Ward administrators’ plus ‘lack of access to information’ before and during public participation meetings. According to Pimbert and Wakeford’s (2001) list of DIPs, in order for participation to be meaningful, citizens must have accurate and accessible information on resource performance and service delivery.

During the capacity building workshop, Sub County officials spoke of insufficient information to support informed public participation in public policy. The only information provided to them by County headquarters are the proposed dates for citizen forums which administrators then use to mobilize. Observation notes of discussions between Ward administrators at the capacity building workshop highlighted further frustration that they did not have the necessary resources to access information such as internet, electricity, computers at Sub County offices to access documentation online (Calla Research, 2016). About 4 out of the 7 ward administrators who participated in an online survey stated that they did not provide the necessary policy documents at the forums because they did not have the resources to access documents online as well as to print and disseminate.

Sub County administrators and Ward administrators who attended the capacity building workshop recounted how the County Executive did not provide them with hard copy documentation of public policy documents. Furthermore, they expressed that not all information is contained in the budget document and that the budget information is neither disaggregated nor easy to read. Some participants at the capacity building workshop admitted that so poor was the flow of communication and dissemination of information by the County Executive to the point that they were not aware of the existence of a County public participation framework until they learnt of it during the capacity building workshop. During the workshop presentation on the NCC Public Participation, a Sub County official commented:

There is a problem somewhere because we did not even know about the Nairobi County Public Participation Act. Such information did not even get to us. We did not even participate in its formulation – Participant of capacity building workshop.

The researcher observed at that moment that a considerable number of participants nodded in agreement indicating that there were many other Sub County officials in the room who had not been aware nor involved in the formulation of the *Nairobi City County Public Participation Act*.

County officials interviewed on the challenges of implementation reported difficulties of accessing information and alluded to centralisation of information and poor communication by the County Executive pertaining to issues of public policy.

With regards to the dissemination of information, that is still under the control of City Hall. They are the ones that provide us with information pertaining to the dates of meetings, budget documentation. They give us the schedule for us to execute – Colin, Sub County administrators.

There has not been any specific effort by City Hall to say before you go for participation, this is the information that you need...The ‘wanainji’ (ordinary person) at the grassroots level does not get that information... - Shelly, Sub County administrators.

The lack of information and feedback is a challenge. We often tell the citizens to attend the citizen forums and that we will come back to them ...but when we don’t get feedback from City Hall (Executive) then those very same people don’t want to come back to the forums ...so it becomes a very big problem. - Jonathan, ward administrators.

County officials that attended the workshop including the County officials interviewed felt that because they did not have access to information and documentation pertaining to public policies, this resulted in citizens also not having sufficient access to information to support meaningful and informed participation in public policy. Sub County administrators were asked during interviews whether they had been provided with copies of policy documents to which they all said they the County government did not provide. All seven ward administrators who participated in the online survey all agreed that there was no provision of policy documents from the county Executive in order to facilitate public participation.

County officials interviewed as well as those who participated at the capacity building workshop admitted to not engaging in budget deliberation but in listing opinions and obtaining “wish lists” due to limited opportunity, technical skill and access to information to engage in deliberation. The problem with the ‘wish listing’ approach to public participation particularly when it comes to public budgets is that without proper deliberation about what is possible, accompanied with justifications, explanations and reasons for and against projects being implemented, citizens have unrealistic expectations (Cornwall, 2004). This also means the formal space once again falls short of another key DIP feature which is “negotiations, public reasoning and dialogue aimed at mutual understanding takes place” (Pimbert and Wakeford, 2001: 43).

Discussions amongst the Sub County and ward administrators at the capacity building workshop pointed to not having relevant documentation such as *County Budget Estimates* or information pertaining to whether and how citizens previous inputs influenced final budgets and plans as well as progress on implementation of projects. This information is seen as vital for sustaining engagement by County administrators as citizens do not want to continue attending citizen forum meetings on the budget if they do not receive feedback information on whether and how their previous input influenced the previous proposed budget, or the budget proposed for that particular year (Calla Research Report, 2016).

Three officials provided examples during interviews of the kinds of questions they constantly receive from frustrated citizens in the forums stated below:

You realize when you go to these forums that people come prepared with the same list of proposals which they put forward in the last meeting and those people say to us ‘we keep giving you our views year on year but there has been no follow ups. What have you done about it?’ – Paul, Sub County administrator.

So because the views from the previous meeting have not been implemented, when it came to having another public participation meeting, they say to us ‘we gave you our views last year and nothing has been implemented so why are you having another meeting, why don’t you first go and do what we asked of you last time before calling another meeting?’ – Jonathan, ward administrator.

We need more involvement, more resources, to put into practice implementation, not just collect input, we need to report back on the projects we have promised to undertaken because people get agitated. They end up saying ‘last year we gave you an itemized list, why have you not implemented?’ It becomes a fight. We strive as much as possible to implement in order to sustain public participation but they lose trust – Kwame, Sub County administration.

During interviews with Sub County administrators, all pointed to how the lack of information was negatively affecting their ability to implement meaningful participation. On the point of “careful consideration, debate and discussion” as one of the key features of Deliberative Inclusive Participation (DIPs) or meaningful participation, interviewees confirmed that this seemed to be lacking. All 11 Sub County and ward administrators expressed in interviews and also during the capacity building workshop that they lacked the skills and information to deliberate, debate and discuss the County budget and plan in detail. The capacity building workshop report recommended that the County government office “furnish the office of Sub County administrators with the relevant documents such as *County Fiscal Strategy Paper (CFSP)*, *County Integrated Development Plan (CIDP)* and the *County Budget Review Outlook*

Paper (CBRoP) to enhance the repository on knowledge on public participation and budget making process” (Calla Research, 2016: 23).

Interviews with the IDS and civil society organisations NTA, TISA and IEA regarding their experience with attending citizen forums at the Sub County or ward level, described the meetings as ‘poor quality’ due to County officials’ inability to provide sufficient time and access to information to ensure meaningful participation. They also maintained that information on public policy although available is not easily accessible. Civil society organisation NTA, explained in an interview how their ability to obtain documentation and information from the County government was eased by the existence of a written ‘Memorandum of Understanding’ between the organisation and the County government. It appears from these findings that citizens must have resources, capacity and a formal agreement such as an MoU with the County government in order to successfully access information. The absence of information makes meaningful engagement as well as demands for accountability much harder for both citizens and public officials.

Interviews with non-state members of the County Budget Economic Forum (CBEF)²⁵ recounted difficulties of accessing information from the County Executive. Interviews with County officials²⁶ revealed that there was very little information about CBEFs as they were not aware of the body’s existence, nor its role or its members since it was established in 2015. The Commission of Revenue Authority, a Constitutional independent body that is responsible for providing guidelines on CBEF structures pointed out that their 2015 national tour sharing information on the body revealed that most citizens were not aware or had very little information on CBEF structures as confirmed by civil society interviewee:

We know very little about the CBEFs, there is little to no information about these forums – Programme Officer, IEA.

CRA also discovered that non-state members of the CBEF struggled to access information from their state counterparts. The centralisation of information at the County Executive level is further worsened by poor infrastructure and lack of resources at the Sub County and Ward offices. During the capacity building workshop, it was observed that representatives of the County Executive denied deliberately withholding information or communicating poorly by

²⁵ Non-state members of the CBEF interviewed include a representative of the Muslim Faith from the organisation SUPKEM (Supreme Council of Kenyan Muslims) and the CSO representative TISA. For a full list of interviews see Annexure B

²⁶. Interviews with County officials include 9 Sub County administrators and 2 ward administrators

pointing out that all public policy documents and related information was freely available and accessible online on the County government website. However, the capacity building workshop report cited the “lack of basic equipment for facilitating Ward administrators in undertaking public participation, e.g. computers, internet connectivity for accessing documents on County government website” (Calla Research Report, 2016: 25).

During an interview, a Sub County official referred to the absence of supporting structures and resources and even basic services such as electricity as among the key challenges for accessing required information and policy documents for participation:

Communication between the County Executive and Sub County is usually by letter but because the letters take time to come all the way from City Hall so they (County Executive) communicate with us on *whatsapp*. And at times you don't have *whatsapp* or *wi-fi* bundles so it means sometimes things will pass you by without you knowing or maybe you will get the information the following day when you have managed to get (data) bundles. We also don't have electricity and we do not have internet. To this day not all Sub County offices have electricity and there have been no Sub County offices that has been connected to the internet – Martha, Sub County administrator.

This section has highlighted the lack of meaningful participation as defined by Pimbert and Wakeford (2001) due to a lack of deliberation and discussion between public officials and citizens based on evidence-based information. This has not been possible due to a lack of resources, structures to access as well as the lack of capacity to understand policy documents.

5.5 Implementing public participation: CSOs and County Budget Economic Forums (CBEFs)

Civil society is considered part of the solution as well as being part of the problem to implementing public participation. In an interview with the CRA and also in interviews with County officials, it was pointed out how in the past and even today in the Kenyan context, CSOs mobilize people to attend public meetings through incentives promising food, money, t-shirts, transportation and this has created an expectation on the part of citizens who expect to get something in return for attending and engaging in forums. County officials interviewed say it is not sustainable and neither is it financially viable given the many public participation processes to provide incentives.

The *County Government Act* and the *NCC Public Participation Act* also view CSOs and other non-state actors as an important partner and part of the solution to overcoming challenges pertaining to issues of capacity, mobilisation, organising and representing citizen voice.

According to Section 87 of the *County Government Act*, County governments should promote and recognise the role of non-state actor's participation in government facilitation and oversight. Section 4 of the *NCC Public Participation Act* also recognises the role of non-state actors in terms of coordinating with the County government in the facilitation of public participation processes. Section 137 of the *PFM Act* further institutionalized the role of non-state actors in the implementation of public participation. County governments are mandated by the *PFM Act* (Section 137) to form a County Budget and Economic Forum (CBEF) which consists of both state and non-state actors whose role is to jointly "facilitate meaningful consultation over the budget process by County inhabitants." CBEFs are intended to provide "a means for meaningful consultation" by the County governments on a number of areas, including:

- i. preparation of a County Fiscal Strategy Paper;
- ii. preparation of a Budget Review and Outlook Paper for the County; and
- iii. other matters relating to budgeting, the economy and financial management at the County level.

The CRA is an independent body established by Article 215 and 216 of the new *Constitution of Kenya* in 2010 and has a mandate to facilitate devolution, resource allocation to the newly established Counties as well as to capacitate and support County administration in the implementation of all its duties including public participation. In 2015, the CRA along with several CSOs including IBP, TISA and the NTA embarked on a national tour to promote and as well as assess the extent to which CBEFs had been established by County governments. The purpose of the tour was also to assist the CRA to develop guidelines for the establishment and operationalization of CBEFs. IBP, NTA and TISA assisted CRA in the development of the final guidelines - *The Guidelines for formation and functioning of CBEF* which were published by the CRA in November 2015.

The fact-finding tour found that even though County Budget and Economic Forums (CBEFs) were to be established "as soon as practicable" in each of Kenya's 47 Counties 24 months after *PFM Act* was adopted in 2012, the vast majority of Counties had yet to establish a CBEF. Applied research conducted by the International Budget Partnership in 2014 revealed that at the time only 4 out of 47 Counties had established CBEFs (Muriu et al., 2014). During the tour, County governments explained to the CRA and CSOs that they were struggling to establish CBEFs because the *PFM Act* did not provide detailed instruction pertaining to its establishment

and thus lacked clarity and guidance. The second reason that County governments provided the CRA was that County governments were busy implementing “more pressing” devolution systems and did not consider CBEFs a priority. However, CSOs who took part in the tour sensed resistance from County officials and argued that there was a more sinister reason such as a deliberate ploy by County Executives to resist devolving powers to the people and maintain the status quo. A civil society interviewee stated:

Government doesn’t want public participation or to be held to account so you find that the organisations that have been put in place and designed to hold them accountable have actually been held back – Oversight officer, TISA.

Of the few CBEFs that had been established the Commission found that some of the members were actually meeting for the first time and others were not aware they had to meet, nor did they understand the budget process. The most critical finding according to the CRA was that “some of the CBEFs were meeting but just cosmetically and they were not talking through the documents as such.” For CBEFs to facilitate meaningful participation there must careful consideration, debate and discussion of reasons for and against as well as unhurried, reflective open-ended discussion (Pimbert and Wakeford, 2001).

Nairobi County was among the Counties toured by the CRA and the 3 CSOs (NTA; IBP and TISA). The Nairobi CBEF was officially established in May 2015, several months before CBEF guidelines were issued by the CRA in November 2015. This therefore meant that the Nairobi CBEF was established by the governor and County Executive using their own standards or guidelines. The CRA indicated that CBEFs formed prior to the release of the guidelines would not be disbanded but would be reconstituted in the next election cycle scheduled for 2017 using the new CBEF guidelines. Although the CSOs and CRA commended Nairobi County for being among the few Counties that had taken the initiative to establish the CBEF, they found a number of concerns.

One issue of concern was the membership selection process of the CBEF. Non-state members of the Nairobi CBEF were selectively handpicked by the governor which immediately weakens the independence, reliability and validity of inputs made by the body. Furthermore, members of the CBEF were not publicized and no information pertaining to the members had been released as of August 2016, a year after its formation. This was confirmed by all study participants interviewed (both state and non-state actors alike) who had no knowledge of who the non-state CBEF members were and with others having no knowledge that the body existed.

The November 2015 CBEF guidelines issued by the CRA stipulate that members of the CBEF shall be appointed amongst groups and persons nominated by the public. The guidelines also instruct that the governor publish names of all appointed members within seven days of selection (CRA Guidelines, 2015).

Another issue of concern which was observed by the CRA and CSOs during the national tour was the Constitution of the Nairobi CBEF. Section 137 of the *PFM Act* states that CBEFs shall consist of members of the Executive and an equal number of nominated and appointed representatives of business, labour, religious groups, women, youth, and persons with disabilities. It appeared that the Nairobi CBEF did not comply with the Act because it did not constitute of representatives from labour, the elderly and persons with disabilities. Furthermore, the CBEF had started holding meetings before the forum was properly constituted. The commissioner of the CRA also found that it was difficult to be ‘too prescriptive’ about groups because the case of Nairobi County had showed how it was necessary to be flexible and sensitive to the context when it came to selecting and identifying representatives. The *PFM Act* does not stipulate that a member of the transport industry be represented on the CBEF but the Nairobi CBEF had found it necessary to want to include a representative from the public transportation industry (popularly referred to as the *Matatu* taxi industry) because it is one of Nairobi County’s largest sectors. The Nairobi County government justified their inclusion of the industry in the CBEF by arguing that it was a vital structure of Nairobi socio-economic context.

Another issue of concern identified by the CRA and CSOs was that the CBEF meetings were very few and far between and that there was little evidence of the forum engaging with budgeting and planning documents. Two non-state members of the Nairobi CBEF²⁷ confirmed that they had only met a few times since the forum was established. They also complained of poor communication by state members of the Executive regarding when meetings would be held and complained that they often received very short notices when they did meet. A non-state CBEF member representing the Muslim faith relayed in an interview²⁸ that it was not

²⁷ A representative of Muslim Faith from the Supreme Council of Kenyan Muslims (SUPKEM) and the CSO representative from The Institute of Social Accountability (TISA). For a full list of interviews see Annexure B.

²⁸ See Annexure B for detailed list of interviews.

possible to deliberate if “County Executive members who are the decision makers of the forum do not respect the meetings and do not show up most of the time.”

Both non-state CBEF members experienced challenges with accessing policy documents before and at times during the meetings so they were not always able to provide strong and relevant input. Figures 1 and 2 operationalizing the theoretical framework for decentralised participatory governments both indicate accessibility of policy documentation as an essential key feature. An additional challenge identified by the CRA and the non- state members of the CBEF is the issue that unlike state members, non-state members do not have the technical skills to engage with policy documents and to make concrete input on issues pertaining to fiscal strategies, financial management and resource allocation. Only a handful of CSOs and NGOs are providing much needed technical capacity building to citizens and officials to better understand the budget process. The CRA found that most non-state members do not have a background in budget or policy work and that they have very low educational levels. This has resulted in most not engaging with the budget and planning processes and documents thereby weakening the citizen voice or representation in these forums.

In an interview, the CRA stated that “the non-state CBEF members nominated or appointed had very low education and literacy levels so interaction with budget documents was a bit difficult.” Furthermore, non-state members were not aware of their roles and function in the forum which added another layer to the challenges faced by CBEFs. The capacity to read and understand budget processes and documents is essential for the success of the forum therefore minimal requirements for education levels was incorporated into CRA’s 2015 CBEF guidelines to ensure functional purpose. According to the 2015 CRA CBEF Guidelines “nominees and final appointees shall have at least a diploma and basic knowledge of budget and economic affairs.” Although the intention of this guideline is meant to strengthen the forum, it could possibly be exclusionary for those considered too poor and uneducated to engage in issues of public policy, stripping the masses of the very power the forum seeks to impart. Leading thinkers such as John Dewey made the case for direct citizen participation arguing that “citizens are highly capable of understanding complex scientific and technical information” (Dewey cited in Pimbert and Wakeford, 2001: 40).

Orientation training was also included as part of the CBEF guidelines by the CRA in order to capacitate and familiarize members with their roles and function of the forum (CRA Guidelines, 2015). The fact that non-state members do not have the same education levels and experience in financial management and public policy sustains the unequal power relationship between state and non-state members of the forum. The dynamics of power relations are further skewed in the participation body in favour of the state members because they have resources and access to documents whilst non-state members do not have similar access to resources which are needed in order to effectively mobilize and make representations of technical nature. State members are skilled and qualified in the area of budgeting and economic issues, compared to non-state actors who are not and require capacity building support from the very institution that they are holding accountable.

The County Budget and Economic Forum (CBEF) is set-up to coordinate and collect views from the public during the budgeting process. It is also meant to function as a “think-tank” for the County governments in terms of financial and economic management (CRA Guidelines, 2015). Both state and non-state members of the forum are thus expected to collect views and conduct annual consultations with the public on the *County Fiscal Strategy Paper* and the *County Budget Review Outlook Paper* and other financial related bills. Neither the *PFM Act* nor the CRA provide guidelines on how the CBEF should consult the public except to say, “consultations shall be in accordance with the consultation process provided in the law relating to County governments” (Section 137 of the *PFM Act*).

There are two issues here and the first is that the law relating to County governments which in this case refers to the Nairobi County *Public Participation Act (No 11 of 2015)* does not explicitly mention nor address the issue of consultations by the CBEF. Nairobi’s *Public Participation Act* provides guidelines and funding for consultations by the Sub County, Ward and village administrators only and not by CBEF members. The second issue is that the Nairobi County Executive have centralised consultations pertaining to the *County Fiscal Strategy Paper* and *County Budget Review Outlook Paper* which are not implemented at the Sub County or ward County levels due to a lack of resources and technical skills at the lower levels (see section 5.4). CBEF has not been funded or recognised in the NCC *Public Participation Act* and thus it is highly unlikely that the CBEF will be able to fulfil its function to consult the public on the policy documents stipulated particularly at the Sub County and ward levels.

Guidelines concerning the consultation process by non-state members expect the non-state members to organise their own consultation meetings including the lower levels prior to meeting at the forum (CRA Guidelines, 2015). Civil society organisations TISA, NTA and IBP and the non-state members that were interviewed however indicated a lack of capacity and resources for the non-state CBEF representatives to consult widely beyond their immediate and active members. This becomes once again exclusionary considering a city like Nairobi has a population of 3 million and thus has multiple women's group and businesses groups which also need to be consulted. There are many sectors and many sub groups/sectors which represent different voices and opinions within those sectors. According to Pimbert and Wakeford (2001) DIPs, for participation to be defined as meaningful, there must be active involvement of multiple social actors and in particular previously excluded citizens.

In order for non-state members of the forums to be truly representative they would need to have sub structures spread throughout the County and functioning at different levels, all the way to the village or at least the ward level. They would also need to consult with other groups other than their own. According to the Pimbert and Wakeford's (2001) Deliberative Inclusive Processes (DIPs), in order for meaningful participation to occur "multiple positions must be given equal opportunity and respect" (Pimbert and Wakeford, 2001: 25). According to the CRA, "the problem is that most of these non-state members are not very well organised." As a result, the CBEF is unable to fulfil their mandate in consulting widely and ensuring citizens have equal opportunity and that all views are represented. Currently representatives of CBEFs only represent a very narrow set of views.

Furthermore, the CRA and CSOs also found during their national tour that different Counties were paying different amounts ranging from as little as 2000Kshs to as much as 20 000Kshs which caused a stir among members. Although CBEFs do not receive funding or a separate budget for its functions, the County government does pay allowances to non-state members for their time and expertise. The CRA justified this by stating "because most of those people are working full-time elsewhere so they need to be paid an allowance for their time in every sitting." The CRA also stated that non-state members, particularly professionals "demanded to be paid" for the time and expertise they gave to the forum.

The 2015 CRA guidelines do not stipulate the exact amount to be paid to members of the forum and neither do the guidelines instruct members what the money should be used for. The commissioner stated in an interview that as of August 2016 an internal circular had been sent out by the CRA instructing County governments to pay a specific amount to all non-state members of the CBEF. During the interview, the commissioner stated that she was not at liberty to disclose the amount. However, TISA, a non-state member of the Nairobi CBEF confirmed they receive an allowance of 10 000Kshs (approximately USD\$100) for every sitting. The fact that County governments not only appoint but also pay non-state members an undisclosed amount to participate in the forum could pose challenges in terms of legitimizing the inputs from non-state member. When non-state members receive payments from the State to participate in decision making process, it creates a conflict of interest and weakens non-state members resolve to challenge the County government or speak freely since they risk losing their monetary benefits. It also paints the perception that non-state members are being paid to rubber stamp County Executive decisions. The risk of such a perception is demonstrated in the secrecy surrounding remuneration for non-state members of the CBEF.

5.6 Conclusion

In this chapter Nairobi County officials and non-state actors shared their experiences regarding the challenges of implementation despite the existence of devolution and participation legislation. Democratic decentralisation theory tells us that legislation is insufficient to bring out successful implementation and outcomes. Successful implementation of democratic decentralisation policies and institutions require certain key features to exist (See Figure 1 in section 2.3). This chapter has highlighted the absence of key features identified such as i) willingness by all County officials at all levels to share power, authority, information, responsibilities and resources ii) support from political and assembly leaders for direct public participation by the State with constituencies, communities and non-actors in planning and decision making iii) central government capability to offer resource assistance, skills transfer and capacity building iv) strong capacities of local structures, personnel to manage fiscal resources , public services & to facilitate the participation in local, national and global economic policies.

There is an inability and possibly an unwillingness by the County Executive to further devolve or transfer power and resources to lower decentralised units. Lower level County officials perceive this as a deliberate attempt to undermine devolution principles in order to maintain

the power and interests of the ruling elite. In addition, there is a lack of support from County assembly members for the County government to engage directly with constituencies as they perceive direct engagement as a threat to their political survival.

Nairobi County government also has weak local structures including personnel who lack the skill to facilitate public participation in local and national economic policies as well as insufficient financial resources to support the roll out of participation. Local decentralised offices are also not capacitated with basic equipment such as electricity, sufficient number of offices, computers, telephones and internet access to facilitate participation. Furthermore, central government and the County Executive has done very little to provide the necessary capacity building support and monitoring of implementation of all devolution structures and legislation by County governments.

On the other hand, the experience of CBEF platforms also highlights the salient point that even with legislation and guidelines in place with regards to issues of representation, firstly the County government need to be committed in implementing the law. Secondly, the laws and guidelines still do not provide adequate information, rules and strategies when it comes to wide ranging consultation processes by representatives as well as the issue of accountability by citizens for how representatives apply their roles and voice their input on behalf of the community.

The absence of the listed features in Figures 1 and 2 explains the gap between practice and legislation and why there are challenges in the roll out of public participation by devolved institutions. They are also some of the reasons contributing to the lack of meaningful participation in citizen participation forums led by the Nairobi City County government. Deliberative democracy theorists argue that participation is a meaningless and empty concept if it is not accompanied with inclusiveness, access to information and deliberation (Gutmann and Thomson, 2002; Holmes and Scoones, 2000; Pimbert and Wakeford, 2001). This chapter has also demonstrated that the citizen forums organised by the Nairobi County government seem to lack “careful consideration, debate and discussion”, which are some of the key features of DIP for meaningful participation (Pimbert and Wakeford, 2001: 25). This has in turn impacted negatively on the County government’s ability to sustain interest in citizen forums.

Chapter 6: Reviewing the qualitative effects of implementing public participation in Nairobi County

6.1 Introduction

This chapter is a continuation of reflections and discussions of Nairobi County government's experiences and challenges with implementing citizen participation but with a particular focus on the efficacy and quality of participatory methods for promoting meaningful and inclusive participation as defined by Pimbert and Wakeford's (2001) Deliberative Inclusive Processes (DIPs).²⁹ This chapter also explores the experiences and efficacy of public participation strategies in the context of class and gender inequalities and the use of representatives as a method to promote meaningful and inclusive participation. Furthermore, the chapter takes a closer look at citizen experiences and attitudes towards Nairobi County's participatory mechanisms as far meaningful and inclusive participation is concerned.

6.2 Implementing public participation: Nairobi County's citizen mobilization and inclusive strategies

The section will begin with exploring the various mobilization mechanisms and methods used by Nairobi County officials as part of facilitating citizen participation in County budgeting and planning. According to sections 94 and 95 of the *County Government Act*, the County government has to establish mechanisms to facilitate public communications and access to information with the widest public outreach using media which may include: television stations, information communication technology centres, websites, community radio stations, public meetings and traditional media. According to the NCC *Public Participation Act* (11 of 2015):

7. Any notice to the public required in terms of this Act or any other applicable legislation shall be done by-
 - (a) publication in at least two daily newspapers with national circulation where appropriate;
 - (b) publication in the official website of the County Government;
 - (c) by means of radio broadcasts covering the area of the County; or
 - (d) publication in any other media with wide reach to interested persons, including but not limited to social media platforms.
- (2) A notification under subsection (1) shall be in English and Kiswahili.

²⁹ See Graph 2, in Chapter 2 section 2.3 for an outline of Pimbert and Wakeford DIP's.

Interviews with all Sub County and Ward Administrators as well as questionnaire responses from all 7 ward administrators revealed the most popular methods for mobilization and communicating participation related information by Sub County and Ward Administrators as shown in Table 6 below.

Table 6: List of mobilization and communication techniques

Popularity level	Mobilization Mechanism
Very popular	Social media (WhatsApp); organised groups (Residents Associations; Women's groups; CBO's; Youth groups;)
Popular	Religious leaders and institutions; Public participation committees consisting of representatives from the community; Members of the County Assembly
Somewhat popular	Pamphlets/fliers/notices/posters; Loud hailers; Door to door by ward administrators; Letters, telephone calls, SMS text messages; Community gatherings/events i.e. sports tournaments; school meetings
Least popular	Newspaper, Television and Radio adverts

Source: Own compilation using in-depth interviews with County officials; questionnaire responses and analysis of capacity building workshop discussions

Analysis of interviews and questionnaire responses revealed the popular mechanisms (captured in Table 6) employed by County administrators are those perceived to be less costly and most effective in reaching the poor masses. These mechanisms often include communicating formally and informally through key stakeholders and institutions in the community. These include community-based organisations; Residents Associations, religious, traditional and tertiary institutions. Questionnaire respondents identified the use of village elders, churches and mosques, school and community events such as sports tournaments as a means of informing citizens about citizen participation opportunities. MCAs are popular for their ability to use their political connections and clout to draw people to meetings. They are also known for their successful abilities to mobilize by paying community members in cash and in kind in exchange for attendance. These methods were corroborated by officials during interviews saying:

We also work with local groups, CBOs also the leaders of the Residents Associations. Youth groups, women's groups and religious leaders. We generally communicate to churches, national administration, informal traders. We normally relay the info through their leaders – Tom, Sub County administrator.

The best way to reach people is to do it through organised groups so we go to churches, we use the chiefs, village elders and our own people who work in the Sub County. We also look at opinion leaders in the city, people who are really keen on what kind of services the County government provides. So if you manage to reach such groups, you will be able to achieve a quorum plus the inputs in the meetings will be much better and stronger- Paul, Sub County administrators.

MCAs are people who are professionals in mobilizing support. So they (MCAs) engage them (citizens) by promising to buy them or give them something for instance Kshs200 – William, ward administrator.

We go and inform people and we know how to do that through the churches, mosques so that people may know in advance and prepare adequately – Martha, Sub County administrators.

We give primary schools pupils notices to send to parents – Herbert, Sub County administrator.

All online questionnaire respondents and 11 Sub County officials interviewed also cited the distribution of information through social media, posters, fliers and banners, posting notices in public and popular places as well as through other forms of traditional modes of communication such as sending letters, text messages via telephone and social media (WhatsApp), phone calls, fliers, posters and word of mouth through Ward administrators. All maintained that communication was only in English due to the costly nature of communicating in multiple languages. Interviews with Sub County officials indicated a heavy reliance on organised groups in the community who often had WhatsApp groups as another channel of communicating with residents about participation meetings. All County officials interviewed confirmed strategically joining these social media groups for purposes of keeping residents informed. Paul, a Sub County official proudly declared “I am a member of most WhatsApp groups in my community that is how I communicate.” Other officials interviewed resorted to informing representatives of various organisations to mobilize their members to attend public meetings through disseminating the information via their WhatsApp groups.

Other methods of communicating and mobilizing residents for participation includes more traditional methods such as hand delivery of letters, word of mouth, posters, text messages, direct phone calls, door to door and spreading information in the community using loud hailers in a vehicle. They also cited the use of public officials working at the national level. Not many cited or referenced relying on public officials working at the County Executive level to mobilize apart from the County finance office sometimes paying for newspaper adverts. All County officials interviewed as well as those in attendance at the capacity building workshop

recognised the importance of religious institutions and Residents Associations, community-based organisations and non-governmental organisations as essential for assisting with mobilization and inclusive participation. “We cannot work alone we have to work with these groups because you cannot be out there all the time. They help us to reach out” said Herbert, a Sub County administrator during an interview.

The least popular mechanism of informing citizens of participation meetings is newspaper, television and radio adverts. Firstly, because it is costly, and the Sub County administration does not directly receive a budget for facilitating public participation hence the Sub County administration rarely advertises public forums in the media. Sub County officials and civil society interviewees TISA and NTA did, however point out that the County Executive administration did occasionally publish newspaper adverts advertising citizen forums but all interviewees, particularly the Sub County administration, did not consider it effective since newspapers are viewed as an elitist form of communication, expensive and thus not accessible to the poor.

Interviews with civil society organisations rated poorly the Nairobi County government mobilization techniques for purposes of public participation by stating:

Mobilization is by word of mouth or hearsay and not really a County government initiative – Oversight officer, TISA.

On mobilization they (County government) are not doing well, the County advertises in newspapers of which most people can’t afford – Programme Officers, NTA.

County governments are not doing their duty of mobilizing and informing – Programme Officer, IEA.

Civil society interviewees from the IEA, NTA and TISA pointed to ‘a lack of commitment’, ‘uninformed administrators’ ‘complete neglect of roles,’ ‘short notice’ and insufficient attempts to mobilize citizens beyond newspaper advertisements. As a result, civil society organisation TISA stated that they had no choice but to “take the initiative to find out about the meetings and mobilize people to attend.”

6.2.1 Poor attendance and low citizen perception: a challenge for Nairobi County's mobilization strategies

Despite efforts to mobilize residents, County officials as well as non-state interviewees all complained of poor attendance to citizen forums as a significant challenge. During an interview, Jonathan, a ward official commented that “even with the assistance of CSOs, attendance at public hearings is still low.” Professor Mitullah of the IDS also noted from her experience of attending citizen forums that “very few individuals who are not from civil society or representing anybody come to the meetings.”

County officials at the capacity building workshop spoke of the challenge of achieving inclusive participation when very few people attend forums to begin with. Participants at the capacity building workshop pointed to a lack of support from County offices to mobilize and facilitate public participation. They also relayed a lack of consultation and also cited poor partnership, poor communication between the County Executive administration and Sub County administration as among some of the reasons behind their failure to successfully mobilize citizens. The capacity building report states “there seems to be a serious disconnect between the County Executive based at City Hall and the Sub County administration...” (Calla Research Report, 2016: 27). The report recommends strengthening coordination and structure of communication between the two levels of administration (Calla Research Report, 2016). Workshop participants expressed that the County government is not providing adequate information, documentation nor adequately supporting their role in respect to implementing public participation through financial resources and technical capacity building support.).

During the capacity building workshop, administrators speculated on possible reasons why citizens do not attend citizen forums. Analysis of observation notes taken at the capacity building workshop highlighted the following reasons put forward by the administrators for poor turn out and attendance by citizens:

- i) Apathy
- ii) Citizen forums are often organised at short notice
- iii) Citizens are not aware of the forums
- iv) Forums are held at inconvenient times
- v) Citizens are too busy to attend
- vi) Citizens do not think they are worth attending
- vii) Political interference

On the point of political interference, workshop participants explained that residents view public participation meetings as political platforms where they air their political views and take positions depending on which party they support. These forums have therefore discouraged moderate, neutral minded people from attending the meetings because they now view public participation meeting as an opportunity for political aspirants and idlers to come and start arguing.

The above reasons were further confirmed during interviews with County officials stating that attendance at citizen forums in Nairobi was very tricky because as Herbert a Sub County official explained “people do not have jobs, people have to go out to look for jobs and tend to daily duties.” Furthermore, despite the existence and prevalence of Residents Associations, Paul, a Sub County official noted that not all members are active and thus it was rare to see members of any association attending public meetings except for a few representing the association. The issue of mobilization is further complicated by the suspicions raised by citizens as a result of the short notice in which Sub County administrators have to notify citizens. According to Pimbert and Wakeford’s (2001) DIPs, for participation to be meaningful unhurried, reflective and reasonably open-ended discussion is required. Martha, a Sub County official pointed out that mobilizing with only a day notice made “the residents think that they are simply coming to just rubber stamp the development projects and so they do not want to attend.” The list of possible reasons put forward by administrators for poor attendance by citizens at citizen forums is corroborated by interviewees from civil society and Residents Associations as well as key findings from *Afrobarometer*, a nonpartisan research network that conducted public attitude surveys in Kenya in 2014 and 2016 (see section 6.6).

Results from the *Afrobarometer* 2014 survey indicate that the majority of Kenyan citizens (80% of survey participants) find it difficult or very difficult to participate in County Affairs and access information on county budgets, legislation and project plans (Mitullah, 2016). According to Mitullah (2016: 6) “the 2014 *Afrobarometer* survey findings show that about 1 in 10 Kenyans say that they find it ‘easy’ or ‘very easy’ to participate in County budgeting and planning, to influence county decision making and to access information on County budgets, legislation and project.” A closer look at the 2014 Kenyan data shows that 72% of the Nairobi *Afrobarometer* survey participants found it difficult or very difficult to participate in county

budgeting and planning and influence decision making.³⁰ About 68% of Nairobi survey participants also said it was difficult or very difficult to access information on County budgets and plans.

According to Figure 1 in section 2.3, access to policy documentation is an important and critical part of operationalizing democratic decentralisation policies and Figure 2 (see section 2.4) list of DIPs identifies access to information as a critical component for meaningful participation. If citizens are experiencing difficulties in accessing information (like Sub County administrators), it is likely that citizens will not attend because they will not find the meetings meaningful or worthwhile to attend. This idea is further corroborated by *Afrobarometer* 2014 survey findings which revealed that citizens lack of attendance at citizen forums is not because of indifference or for a lack of interest. When asked whether citizens have an interest in public affairs in the 2014 *Afrobarometer* survey, the results show that 50% of Kenyan participants said that they are very interested or somewhat interested. The survey results also found that urban residents are more likely to express interest in public affairs (Mitullah, 2016). The reason for poor attendance is that “overall citizens are not satisfied with the extent of public participation in the operation of county governments. 58% say they are ‘not at all’ or ‘not very’ satisfied, and an additional 9% say that there is no public participation” (Mitullah, 2016: 7)

There is acknowledgement by all study participants (both public officials and civil society) which is supported by *Afrobarometer* survey that citizens are effectively participating or making use of the public participation spaces provided for them especially around budgeting and planning in public policy at the County level. There is debate regarding why this is the case and how to address this problem. The debate is on whether that can be blamed on the fact that the County government is not implementing public participation effectively as outlined in the preceding chapters or whether citizens themselves are not doing their part in order to participate effectively in these forums? Can the poor quality of participation in formal spaces be solely blamed on poor implementation by government? Citizen participation was often referred by County officials during the capacity building workshop as a “two-way street.” There is debate

³⁰ Respondents were asked: Thinking about public participation as enshrined in the new constitution, how easy or difficult would you say it is: To participate in County budgeting and planning? To influence decision making? To access information in county budgets, legislation and project plans? A Breakdown of *Afrobarometer* survey data to this question by County was provided by the *Afrobarometer* Survey offices upon request by the Researcher

around the roles and responsibilities of citizens and public officials when it comes to implementation of citizen participation. One of the disputes picked up during interviews with civil society and public officials is over the responsibility of mobilization, capacity building or civic education between state and non-state actors.

The laws may have changed but that does not mean that the attitude of officials has also changed with the law. There is not necessarily a strong resistance to implementation of public participation by officials but there seems to be less enthusiasm and commitment on certain provisions or processes. The attitude amongst officials as indicated by analysis of interviews and workshop discussions is that they expect citizens to mobilize themselves to attend meetings and to also educate themselves on the budget and planning processes. Sub County and Ward administrators argued with workshop facilitators during the capacity building workshop that their role and responsibility was to make announcements and that was sufficient with one official stating “citizens must take their own initiative to attend. I really do not expect that I need to do something else for them to be able to come.” The officials argued that they did not want to be held accountable for everything to do with participation from mobilization, attendance and deliberation. These sentiments are shared by the CRA, the independent Constitutional body capacitating County officials on the implementation, with a member stating in an interview “citizens need to have a role to play, it cannot just be government implementation only. Once citizens refuse or fail to go, they lose their right to complain and participate.”

Officials accuse MCAs as well as CSOs for creating a culture and expectation amongst citizens that they should attend public meetings and participate in governance processes in exchange for cash or goods (see sections 5.3 and 6.2. of preceding chapters). Officials argue that this has resulted in citizens refusing to attend citizen forums unless public officials provide something in exchange. The CRA and all 5 civil society interviewees³¹ agree that before devolution most of the public participation was conducted by civil society. Civil society would hold public meetings to implement projects and engage citizens on various issues using donor funding to transport citizens to the meeting venues, provide refreshments, T-shirts and at times money. The CRA in an interview stated that “Basically in the past if you attend public participation

³¹ See Annexure B for a full list of CSO interviewees

forums you got something in return now there is a keen expectation for this to continue but unfortunately our public funds cannot accommodate that practice.”

Unlike civil society, officials are neither willing nor able to provide incentives such as food and money for people to attend participation meetings. In an interview with civil society organisation, NTA, they argue that people are not attending meetings because the County government is “putting less effort in rolling out public participation.” This is a sentiment agreed upon by other civil society organisations interviewed.³² On one hand County officials are arguing that people should take the initiative and make the effort to attend meetings while on the other hand organised groups argue that government needs to, as TISA put it, “first put in more effort” and “go the extra mile” if they are to see attendance improve.

When queried about what the ‘extra mile’ or ‘more effort’ required from County officials entailed, there was consensus among civil society interviewees from NTA, TISA and IEA who held the view that citizens expect the state to mobilize beyond putting an advertisement in the paper. They explained that citizens do not just want to be informed about the forums, they wanted to be motivated and encouraged to attend, but because government is putting very little effort in mobilization, people are not forthcoming and willing to engage. Citizen attitudes and perception towards local government in Nairobi is poor due to a long-standing record of local governance being seen as weak, ineffective, corrupt, incompetent and unresponsive (Afrobarometer, 2010; Hendriks, 2010; Olima, 2013). Findings of the 2010 Kenya Round 4 Afrobarometer survey on Kenyan attitudes on democracy and governance revealed that Kenyan citizens rated poorly the performance of local governments due to poor service provision and the inability to engage citizens in local government decision making processes (Afrobarometer, 2010). Funding is important for efficient service delivery and the 2014 Afrobarometer survey revealed that 47% of Kenyan citizens do not think that the funds disbursed to Counties by the national government are adequate (Mitullah, 2016). The 2014 *Afrobarometer* survey participants also rate poorly the performance of county governments in a number of areas with the exception of the provision of basic health services (Mitullah, 2016).

In the latest round 7 of the Kenya Afrobarometer survey, 76% of surveyed Kenyan citizens said they have never contacted any official or government agency about some important

³² See Annexure B for full list of CSO interviews

problem or to share their views in the past year (Afrobarometer, 2016). A closer look at this data by County shows that 85% of survey participants from Nairobi said that they had never contacted a government official or agency about a problem or to share their views in the past year.³³ The poor perception of previous local government administration has largely remained unchanged as *Afrobarometer* statistics show. Civil society interviewees from TISA and IBP argued that given poor and negative perceptions of local government among citizens, government officials needed to put more effort beyond “just making announcements” to change perception and restore public confidence.

During interviews with civil society interviewees from IBP, NTA, IEA and TISA,³⁴ they argued that the County government can change perceptions and restore public confidence by doing the following:

- i) Building social capital (relationships of trust with citizens)
- ii) Improving the management of public meetings by making them more accessible and setting public participation meetings at convenient times
- iii) Giving citizens sufficient notice
- iv) Disseminating relevant policy documents prior to and during public meetings
- v) Simplifying documents and engaging in meaningful deliberation with citizens
- vi) Providing detailed feedback regarding previous input and information on the progress of service delivery projects.

The last point (no.vi) put forward by civil society interviewees regarding providing more detailed information is supported by the latest round of the Kenya *Afrobarometer*. The survey showed that 80 % of surveyed citizens in Round 7 agree that information held by public authorities is a public resource and should be made available to the public (*Afrobarometer*, 2016). A breakdown of this survey data by County shows that the response is higher than the national average with 85% of surveyed participants in Nairobi stating that they agree or strongly agree that information held by public authorities should be made public.³⁵

³³ A Breakdown of Afrobarometer survey data to this question by County was provided by the Afrobarometer Survey offices upon request by the researcher

³⁴ See Annexure B for a full list of interviews with CSOs

³⁵ A Breakdown of Afrobarometer survey data to this question by County was provided by the Afrobarometer Survey offices upon request by the researcher

Another bone of contention between state and non-state actors is the issue of civic education. Part 2 Section 4 of the Nairobi County *Public Participation Act* charges the County Executive with the responsibility of developing and executing “an appropriate civic education program” and “ensuring coordination with non-state actors in public participation processes and civic education.” According to the Act, the County government is mandated to provide civic education on participation and policy formulation processes. However, the workshop capacity building report stated that a number of key provisions in the participation act such as civic education remains unimplemented due to the absence of regulations detailing how certain provisions should be implemented (Calla Research Report, 2016). Civic education plays an important role in ensuring that Pimbert and Wakeford’s (2001) DIP threshold for meaningful participation is met through negotiations, public reasoning and dialogue aimed at ensuring that mutual understanding takes place, even if consensus is not being sought.

Interviews with all Sub County and Ward officials revealed that as of August 2016, there was no civic education program in the County particularly dealing with public participation and policy processes. Tom, a Sub County administrator was quoted as saying in an interview “We do not have as a Sub County or County a civic education program on participation”. However, interviews with County officials also highlighted that there were other civic education programs being implemented in the County. There was a civic education program on voting, plus civic programs emerging from County government partnerships with development partners or civil society. County officials interviewed gave examples of holding public meetings or *barazas* to inform residents on a variety of topics such as health related issues or sexual violence awareness campaigns among others.

According to Section 87 of the *County Government Act*, County governments should promote and recognise the role of non-state actor’s participation in government facilitation and oversight. Section 4 of the NCC *Public Participation Act* assigns the role of developing and executing civic education to the County government to the officers in charge of facilitating public participation, which refers to the Sub County and ward administrators as specified in the Act. The NCC *Public Participation Act* also mandates that “the County government ensures coordination with non-state actors in public participation and civic education processes.” Given that the County Executive has not devolved power, resources, information and skill to Ward administrators and Sub County administrators there is very little civic education and coordination with non-state actors. In actual fact, analysis of workshop discussions and

interviews with County officials showed confusion amongst officials who were not aware that it was their responsibility to develop and execute a civic education program. Officials taking part in the capacity building workshop expressed that they were not capacitated to implement a civic education program on citizen participation in public policy nor did they agree that this should be their responsibility but rather the responsibility of citizens and civil society to educate themselves on public participation.

However, citizens, according to civil society expect government to do civic education on budgeting and planning processes as stipulated in the law. Interviews with civil society organisations TISA, NTA and IBP revealed that they are currently advocating for the County government to roll out civic education programmes as part of facilitating public participation but without much success. The Commission for Revenue Authority (CRA) pointed to a lack of resources as the main reason why County governments were reluctant to develop and roll out civic education program on participation. According to the CRA “government alone is struggling with funding mobilization let alone civic education.” The civil society interviewees all agreed with CRA’s sentiments, but they also felt there was a more sinister reason as to why the County governments were not facilitating civic education and that is to resist devolution and the power of citizens to hold them to account. A civil society interviewee stated:

I do not think that it’s very realistic to think that the government is going to give you civic education to help you to hold them accountable or that laws are going to solve problems if government has no intention to implement them –
Country manager, IBP.

All five civil society organisations interviewed³⁶ agree with County officials that public participation is a “two-way process” which involves both citizens and government and that citizens simply could not sit and wait for government to implement laws in order to improve formal participation spaces. Civil society interviewees from IBP, IEA, NTA and TISA expressed consensus in the view that in order to obtain government responsiveness citizens needed to also “do their part” and “show up” at meetings. Mobilization and pro-active participation by citizens result in government responsiveness. This emphasises the point in participatory governance literature as well as literature on government responsiveness that the law has its limits in terms of what it can do to ensure government compliance and responsiveness, unless citizens show up and demand better documentation and engagement, government will not respond (Brinkerhoff et al., 2007; Speer, 2012).

³⁶ See Annexure B for a full list of civil society organisation interviewed as part of this study

Arguing in an interview a civil society interviewee added:

What determines what happens in those public meetings is whether citizens show up for meetings. If citizens show up for and ask the right questions then government has no choice but to respond and if citizens are not happy with the way in which meetings are being run then they must demand to be engaged in a particular way – Country manager, IBP.

The issue pertaining to poor attendance is explained by Professor Mitullah of the IDS “as active rejection by citizens to participate in invited spaces.” She explains that it is not that County government is failing to implement but “it is just that people’s mind sets have not changed as quickly as the system has changed.” Other civil society interviewees from TISA concurred with this notion by indicating that the lack of pro-activeness and the tendency for citizens to not show up at participation meetings is engrained in what they term as the *Mamoyegaba* mind set or worldview which is *KiSwahili* for “it is government’s responsibility.”

Public policy was not considered part of the citizen realm and this partly explains the passive attitude of citizens. An interviewee from TISA stated that “as CSOs we are now trying hard to change that attitude.” TISA is running a campaign called *Jehushishe!* which is *KiSwahili* for “Get involved!” or “Take back responsibility!” TISA found that a campaign to change the mind-sets of people was needed before a civic education program could be implemented in order for public participation reforms to be successful. However, TISA has found the *Jehushishe!* campaign very challenging to change a 40-year-old mind-set, (counting from the time Kenya obtained its independence to the time a new Constitution was adopted in 2010) to involve citizens in issues of public policy. TISA explained that in the past “citizens were basically treated like children not capable of making their own decisions” and were generally not given opportunity to make demands, instead government made decisions on behalf of citizens and informed them what they as government thought was in their best interest. Thus, civil society organisations such as TISA feel that the 40 years of unequal power dynamics in public policy making has resulted in the lack of initiative and pro-activeness of citizens. TISA added by saying in an interview:

The concepts of self-governance and self-determination were non-existent prior to devolution so 3 years (since adoption of new Constitution and participation legislation) is a drop in the water. So people still have the mentality that public policy is still for the government and not for us – Oversight officer, TISA.

Although opportunities to participate in local government were introduced in early 2000 through LASDAP, it also suffered from limited participation by citizens particularly in urban areas or areas with large geographical spaces (Lubaale et al., 2007; Syagga and Associates, 2007). The lack of a clear mechanism to mobilize citizens to attend meetings also hampered wide participation or meaningful priority setting (Centre for Devolution, 2013; Muriu et al., 2014). While LASDAPs did enhance public participation in the prioritization of projects, participation was largely limited to consultation. Even as public awareness of the LASDAP process increased, active participation remained elusive. With little or no information on what LAs were doing, citizens had no idea of how, when and where to participate (Muriu et al., 2014).

While some officials view the lack of attendance by citizens as due to apathy or negligence, the civil society organisations which took part in this study have the collective view that it is not that citizens do not value public participation, but that the low turn-out particularly in Nairobi is as a result of other commitments such as work or searching for employment. Participation is seen as a class luxury where those who have the ability and the time to take off from work can afford to go to meetings. These CSO interviewees all argued that most Nairobi residents are poor and hence do not have the luxury of going to meetings. The cost of participation is not only borne by County officials but also by citizens who have to factor in the amount of time they spend in meetings vis a vis the amount of time they spend earning a living.

Citizens also have to factor in the cost of traveling to venues in order to participate. Participation is also costly in terms of the amount of time and energy spent by citizens which can be redirected elsewhere therefore citizens must feel convinced it is worth the cost to attend participation meetings. In the end, citizens must decide whether it is worth the cost and government officials have to help citizens to make the choice to attend by making attendance worthwhile. Civil society IBP argued that people did not attend meetings because they do not think they are important but because most of the time the meetings are not treated like they are important or considered important by officials.

There are many issues and weaknesses concerning the formal or invited spaces of participation in devolved Nairobi County. Thus far the study has shown that they are poorly resourced (financially and technically). They also lack clarity and support from the state actors and the

power dynamics of these spaces remain unequal. The very spaces that are meant to empower the people have been weakened and stripped of their power. Interviews with CSOs involved in supporting the CRA in establishing the CBEFs spoke of divisions within the sector with regards to whether or not to support formal spaces of participation.

Most of the CSOs strategies are based on the use of both informal and uninvited spaces to engage in public policy, protest and make demands. However, for some, the implementation of public participation is not necessarily the issue but how and when people want to engage and express themselves. People are choosing to engage outside of the established and formal public participation processes being implemented by government which they consider as weak and ineffective as well as captured by state interests. During an interview, Professor Mitullah argued that research findings show that “people engage outside of the provided platforms, at their own times, in their own ways, on their own terms” as way of reclaiming participation by redefining the parameters and rules in accordance to their standards of what is acceptable.

Interviews with CSOs³⁷ who participated in the CBEF tour highlighted divisions within the NGO and CSO sectors as some did not believe that government should be implementing public participation, drafting legislation, setting up structures instructing citizens when and how they should participate. One civil society interviewee from IBP stated, “there is the idea that citizens should organise themselves and set the agenda and rules about how and when they want to engage and what they engage on.”

On the other hand, other civil society organisations and even public officials have defended formal spaces of participation by highlighting the importance of structure in public policy. The NTA, IBP and TISA justified their involvement in formal spaces stating that despite the many flaws contained in the formal participation spaces, it was still useful to engage during the set times at the beginning of the budgeting and planning cycle in order to have influence over the kinds of activities and policy priorities County governments embark on. So, there is a case that can be made for government involvement in informing when and how the public should engage however they cautioned that government should ‘merely guide and not take over the process.’ They also argued that a strong partnership with all stakeholders civil society, citizens and

³⁷ National Tax Payers Association (NTA); International Budget Partnership (IBP); and The Institute of Social Accountability (TISA). See Annexure B for a full list of interviews

government was necessary when it comes to successfully implementing public participation. Informal spaces were considered as still vitally important for democracy and participation. In an interview the NTA put it that “there is room for both invited and uninvited spaces, to work together and complement one another.”

6.2.2 The use of representatives: a strategy for overcoming poor attendance

The previous section highlighted the challenge of poor attendance and participation levels at citizen forums. Some administrators have devised strategies to overcome some of the obstacles causing poor attendance in order to boost attendance. One strategy is to hold citizen forums with representatives of the community in the form of committees or individuals. Some administrators do not focus so much on reaching a large number of people instead the focus is on targeted mobilization and engagement with representatives of the community. During an interview, Kwame, a Sub County official stated that “a good turnout is not always possible..., so we participate in terms of representation and not necessarily numbers.”

Representatives are selected from organised groups and in some instances, the administrators assist the community to select a representative and/or to organise themselves to make input into County budgets and plans and other development or policy issues. This is a popular strategy employed by administrators as admitted by all Sub County officials when interviewed on their methods of engagement. As stated by an official:

Public participation meetings on the budget are very poorly attended...that is why we established these committees which respond and engage with us on different problems/issues... – Jonathan, ward administrator.

During the capacity building workshop, officials identified a gap concerning the use of representative groups and guidelines for selecting representatives effectively to ensure genuine inclusion within the Nairobi County *Public Participation Act* and other related participation frameworks. There was concern expressed by the workshop participants pertaining to the inconsistency or the varying approaches used by different administrators when using or selecting representatives to make input into public policy on behalf of communities. As a resolution, participants of the workshop requested “uniform guidelines and indicators for undertaking and measuring thresholds for public participation” (Calla Research Report, 2016). The differences in how County officials use representatives to facilitate public participation means that citizens are experiencing public participation opportunities in different ways, depending on the style or approach of the Sub County administration. Below is table which

captures the various approaches to using representatives applied by the different administrators interviewed:

Table 7: Sub County public participation committees, roles and structures

Sub County	Public participation Committee (Y/N)	Roles and responsibilities	Membership structure
Madaraka	Y (established and operational)	Mobilize Collect input through convening smaller forums at ward level	Sector based representatives selected by community members
Roysambu	Y (established and operational)	Mobilize Collect input Present views at forums	Sector based – representatives identified and selected by Sub County administrators
Langata	Y (established and operational)	Mobilize Collect input Present views at forums	Ward based representation voted by residents in each ward
Kasarani	Y (established and operational)	Mobilize Present views at forums Vote on selection of priorities	Ward representatives sitting in sub sector committees each consisting of treasurer, chair and secretary
Starehe	Y (established and but not operational)	Mobilize Collect input Present views at forums	Sector representatives for each ward selected by community

Kibra	Y (established and operational)	Mobilize Present views at forums Providing feedback to community	Sector based representatives selected by MCAs
Embakasi Central	Y (established and operational)	Mobilize	Ward representatives selected by organised groups
Kamukunji	N	-	-
Mathare	N	-	-
Westlands	N	-	-

Source: Own compilation using interview data of Sub County and Ward Administrators

These different approaches captured in Table 7 above were identified and explored through the in-depth interviews with Sub County and Ward administrators. As indicated in the table above, in some Sub Counties, representative groups or persons are voted for or elected by community members. In other Sub Counties, representation is by invitation by the Sub County or Ward administrators. In certain instances, sub Counties set up representative groups consisting of elected representatives (Members of the County Assembly (MCAs) and/or individuals selected by MCAs or organised groups within the community. Furthermore, these committees of representatives have different roles and functions depending on the Sub County.

All committees do the job of mobilization, but some committees have gone a step further and have been given additional responsibilities such as being given a platform to make representations at citizen forums and making input on behalf of members of the community. In other Sub Counties, they have multiple responsibilities ranging from mobilization, collecting input by convening smaller forums at the ward level and providing feedback to Sub County government and to the community. Other committees or representatives in Kasarani Sub County for instance have decision making powers when it comes to shortlisting or identification of projects to be considered for the County budget and plan. To add to the complexity some Sub Counties have committees, but they are not functional, others do not have or use committees or representatives at all.

Since legislation is silent about use of representatives by decentralised units at the Sub County and ward levels, officials have come up with their own criteria for selection. During interviews with Sub County officials, they identified different criteria for selection and eligibility to be a representative. In some instances, selection and eligibility is determined by the MCA who selects “his people” as Kwame, Sub County official described it to represent the community at participation meetings. Other administrators have taken guidance from other legislative framework such as the *PFM Act* which provides some criteria for the selection of non-state representatives to sit on CBEFs and thus select according to the different social clusters within the community. The Sub County administrators explained this in the following way:

In terms of selection of committees, we look at the different clusters we have within every ward. We have men, women, youth, people with disabilities and we call people in that ward and they elect their representatives of the various groups...– Shelly, Sub County administrator.

Instead of using the social/vulnerable groups approach to representation, other administrators merely use community and/or political representatives from each ward. Another Sub County administrator, Paul, uses qualifications as criterion for selecting “opinion leaders” which he refers to as people who work or have expertise or experience in a particular sector such as health, education, water and infrastructure. These “opinion leaders” are invited to attend and represent different issues during citizen forums. Another selection criterion also identified by Tom another Sub County administrator involves the use of numbers, stating that “we identify 50 people per ward to attend. Because if we just open the meetings to everyone, there will be queues...” CBOs and Residents Associations are approached by the Sub County administrator to identify the 50 people who will attend the forums and speak on behalf of the community.

The Commission of Revenue (*CRA*), the *PFM Act* and to some extent the *County Government Act* have provided some guidelines concerning the use of non-state representatives on County Budget Economic Forums (CBEFs) who make input into the budget and planning process on behalf of various groups or stakeholders. However, no minimum guidelines concerning the use of representatives for facilitating citizen input at the Sub County and ward level have been provided. During the capacity building workshop, participants voiced the need for a threshold to ensure fair and inclusive participation.

Analysis of observation notes taken during the workshop discussions indicated that workshop participants expressed concern for the lack of guidelines and non-uniformity in the use of

representatives by different Counties which left room for participation processes to be manipulated and captured by elites. One workshop participant gave an example of how some County officials who use representatives to mobilize people to attend citizen forums risk having representatives that only mobilize or inform those who share similar interests. An additional worry is that those chosen as representatives are invited to speak on behalf of the community at public meetings without a mandate or any form of consultation or accountability to the people he or she is claiming to represent.

Key features of Deliberative and Inclusionary Processes (DIPs)³⁸ include “active involvement of multiple social actors” and “multiple positions are given equal opportunity and respect.” (Pimbert and Wakeford, 2001). The politics of representation questions the extent to which representatives are truly representative of multiple positions and actors in society as well as the fact that despite having people representing different groups in society, no single group could be said to be completely homogeneous. Guijit and Shah (1998) argue that inclusive representation and participation within communities is often challenging due to high levels of diversity as well as the power dynamics between the various social groups within the community based on class, caste, livelihood, gender, age and religion. Recent literature on citizenship has indicated the importance of analysing invited spaces based on who is invited by whom and how, which stakeholders have been invited and for what purpose as well the ultimate question of representation and participation in whose name? (Fotel et al., 2008; Hendriks, 2010; Lavallo et al., 2005). From the data collected, there appears to be very little evidence that Nairobi County’s participatory approach of using representatives is legitimate, inclusive and accountable.

6.2.3 Trust: the foundation of mobilizing for meaningful and inclusive participation

Other mobilization strategies used by some administrators to overcome the challenge of poor attendance at citizen forums is by holding informal public meetings also known as *barazas* as a form of outreach to citizens. The *barazas* are informal public meetings held by Sub County administrators to help build a rapport, to build trust through an open-door policy which was not there in the previous administration. By holding public *barazas*, administrators create the necessary relationships and atmosphere required for meaningful participation. *Barazas* are informal spaces created outside or parallel to the formal or institutionalized meeting spaces.

³⁸ See Figure 2 in Chapter 3, section 3.2

These informal spaces are convened jointly by the administrators and citizens for citizens. According to the chief Sub County administrator “there is no budget for any public participation meetings outside the budget.” Sub county administrators do not receive financial assistance from the county government to hold additional public participation meetings such as *barazas* and thus rely on their own funding, creativity and partnerships with organized groups to convene these meetings.

In terms of budget for *barazas* and meetings, we are not facilitated for that. We work with little resources that we have... – Shelly, sub county administrator.

These types of informal spaces are viewed as more independent, representative and trusted compared to formal invited spaces (Gaventa, 2007). Informal spaces are popular in Nairobi particularly those created by neighbourhood or Residents Associations. Questionnaire respondents as well as participants at the capacity building workshop identified Residents Associations as critical partners because of their popularity and reach. So active and proliferate are Residents Associations in Nairobi, that the County introduced a *Neighbourhood Association Act* which was adopted into law in 2016. Shelly, a Sub County official admitted to attending neighbourhood association meetings because “people living in those areas organise themselves to speak together in one voice.”

Two out of the eleven County administrators interviewed reported holding parallel meetings such as *barazas* outside of the formal or institutionalized citizen forums as a way of building relationships and trust with citizens for better attendance and input on governance matters to which citizens have a greater say on the meeting agenda. One official explained the importance and impact of *barazas* as follows:

We endeavour to go out and meet with them and hold public meetings which we call *barazas* ...They associate the County government with enforcement...we are trying to create a friendly atmosphere...They are shocked because we have changed very much from the previous local authority which was very firm on enforcement only.... we have started to see results, people are building confidence in us – Paul, Sub County administrators.

Paul revealed that his mobilization method went beyond issuing fliers and *WhatsApp* messages but that it takes “time and effort.” He also described how he goes the extra mile by not only asking citizens to attend County meetings but that he makes the effort to attend informal meetings organised by citizens as a way of establishing social capital necessary for meaningful

and inclusive participation. He explains the importance of social capital for public participation by reiterating:

Public participation takes time and effort. It requires that you establish a relationship with the community. I make an effort to meet people... It requires commitment on my part...So I have to dedicate time and make sacrifices – Paul, Sub County administrator.

Spaces for public policy formulation, deliberation and implementation require social capital and established relationships. These spaces operate through patterns of interaction, exchanges and relationships based on trust and open communication (Wilikilagi, 2009). *Barazas* are a mechanism for which the local government administration can establish relationships of trust by engaging informally on issues targeted towards specific policy or service delivery related problems that are of concern to the majority of the people. When trust in bureaucratic and/or state structures are lost it usually results in a preference for alternatives to state bureaucracy such as informal meeting spaces and partnerships between non-state actors to solve governance problems (Hansen, 2005; Hendriks, 2010).

During interviews with Sub County administrators they highlighted an obstacle preventing them from establishing relationships of trust and a conducive atmosphere for participation. Administrators pointed out how implementing public participation conflicts with their other duties. Some officials interviewed spoke of how enforcing local government by-laws and regulations made it a challenge to establish and maintain the necessary trust and diffuse tensions for meaningful participation. They also spoke of the challenge of building social capital and trust with the community given the legacy of confrontation and enforcement of the previous local government regime. Officials recounted during interviews the following:

As Sub County or public officials, people think we are one of the institutions that don't respect human rights. Sometimes since we enforce the law, they may see it as breaking human rights, so they may not take us seriously if we speak to them about their right to participate – Tom, Sub County administrator.

We do have conflicting roles for example we demolish illegal structures. People see it as violation of human rights. And then when I'm in a different forum I try to talk to them about their rights, it will not work – Kwame Sub County administrator.

Our relationship with residents and community groups so far is good but in the former regime, the inspectorate section in the previous administration, they had a wrong attitude but now we are interacting with people positively telling them we are not their enemies– William, ward administrator.

We are trying to rebuild relationship with residents because all these years, all their interactions and observations of the previous local authorities was with

the inspectorate teams which only cared about whether residents are adhering to by laws. The residents associate the County government with enforcement ...Now these days we are now trying to interact with residents using a friendly approach – Paul, Sub County administrators.

The creation of effective and meaningful spaces of participation and deliberation is not automatic, it often requires concerted effort over time to build, nurture and develop the necessary atmosphere and relationships of trust for meaningful participation to occur. In addition, these relationships of trust need to be sustained by service delivery performance which is challenging given that the Sub County administration is not responsible for allocating and implementing resources for service delivery. Such was the sentiment expressed in the capacity building workshop, “there seems to be lack of correlation or interaction between service delivery and performance negatively affecting participation, trust, engagement” (Calla Research Report, 2016). This sentiment was confirmed in interviews with County officials:

There is a lot of issues with feedback because in the past people have raised issues and yet nothing was ever done... So, what do you expect the next time they come to a meeting it is going to be a bashing process against the government – Herbert, Sub County administration.

Basically, what we agree with residents we strive as much as possible to implement in order to sustain public participation – the agitation is not always the issue, they lose trust – Kwame, Sub County administration.

The inability of County governments to deliver on citizen inputs and priorities makes citizens lose trust in the participation process and in government’s abilities to implement their expressed desires. It also makes citizens question the extent to which their inputs are being taken seriously or whether these invited spaces are merely tick box exercises, discouraging future participation. The use of *barazas* (informal meetings) is one method that a few Sub County administrators are using in order to build trust through providing opportunities for meaningful engagement. According to Pimbert and Wakeford (2001) DIPs, social interaction in the form of face to face meetings is very important part of creating a conducive environment for facilitating meaningful engagement between citizens and the state.

6.3 The challenge of class inequalities

A poverty and inequality survey conducted by Kenya’s National Bureau of Statistics (KNBS) in 2013 revealed that 45% of Kenya’s population live in poverty (KNBS, 2013). The levels of inequality are high with an estimated Gini co-efficient of 39% in rural areas and 49% in urban areas (KNBS, 2013). Kenya’s national Gini co-efficient is 0.44 compared to Nairobi County’s

Gini co-efficient of 0.34. Nairobi's Gini co-efficient are almost as high as the national average, reflecting high levels of inequality in the County.

From the interviews with County officials, it has emerged that the insufficient resources to fund citizen forums have resulted in administrators relying on external business stakeholders to fund the forums. Relying on stakeholders to fund public participation meetings has to an extent compromised inclusive and meaningful participation. In these interview extracts below the more salient point seems to be that the level of spatial inequality at the County and Sub County levels affects the quality of public participation experienced. More importantly, according to Pimbert and Wakeford (2001) DIPs for participation to be meaningful, multiple actors and positions must be given equal opportunity and respect. Interviewees spoke of how public participation in affluent areas is different from public participation meetings in poor areas because in affluent areas, wealthy citizens are able to hire a meeting venue as well as pay for refreshments. Due to the limited budget, the County government is not able to hold many public meetings and thus not many people are consulted. Colin, a Sub County official expressed "I feel that we need more financial support from the County government so that we can reach more people." Participation seems to occur more often in affluent areas than in poor areas since wealthy residents and associations can afford to sponsor more public hearings and thus are able to have their voices heard. When the County government budget runs out and they fail to reach every area or citizen, poor residents and associations who cannot afford to sponsor public meetings are therefore excluded from the participation process.

In addition to having greater access and greater say, wealthy residents and businesses also have a greater influence in the agenda and identifying priorities which are aligned to their interests. They also can influence when the meeting occurs, the meeting time and place because they are funding the meetings. Sub County officials had this to say during interviews:

Sometimes we provide food at the meetings (citizen forums) with the help of external stakeholders.... These are mostly businessmen and women who donate. Even residential associations also provide us with some refreshments – Herbert, Sub County administrator.

In terms of budget for 'barazas' and meetings, we are not facilitated for that... We mostly rely on our stakeholders i.e. corporates or businesses... They are interested in having these meetings because some of these issues directly affect them... It is very challenging to keep asking stakeholders for money and support. – Shelly, Sub County administrator.

Different classes experience public participation differently... There are differences in the way we engage them... The upper hill (a district located in

affluent area in Westlands) Sub county residents organise their venues and meetings for citizen forums – they reach out to us – Kwame, Sub County administrator.

Different classes experience citizen participation differently and this is because they are engaged and treated differently by the administrators. During the capacity building workshop, administrators demonstrated a bias and favouritism towards what they refer to as “their biggest clients” that supply local government with financial resources and investments compared to the poorer clients who they described as “idlers” and “people to not consider seriously.” In an interview a Sub County official distinguished between the two different ‘clients’ by saying:

Our biggest clients in Nairobi are the business people who pay rates and taxes...on one hand we have business people and on the other hand we have people who live in the slums – Kwame, Sub County administrator.

Due to high unemployment rates in the poor wards, most people are idle and citizen forums provides them with something to do – Chief Sub County administrator.

Figure 1 lists the treatment of citizens as customers and consumers by local officials as a key feature for designing strong decentralisation policies and programs. Observation notes of discussions held during the capacity building workshop highlighted how poor working-class citizens were treated differently by public officials compared to rich upper-class citizens. At the workshop, administrators clearly indicated a preference to engage wealthy residents instead of the poor who they described “as idlers who make implementing public participation challenging.” Of the 11 Sub County and ward administrators interviewed, half are from Sub Counties with integrated settlements and huge inequalities between the poor and the rich. These five County officials spoke of the different approaches used by the County government when implementing public participation between the poor and rich areas in their jurisdiction.

The rich and wealthy have more control and say over how forums are organised, when and where and because they donate and sponsoring citizen forums themselves. The wealthier residents and business owners or elites of Nairobi are to an extent able to dictate and determine how forums will be arranged in a way that poorer residents are not able. By offering to sponsor citizen forums themselves they have more of a say, their inputs are taken more seriously and as Herbert a Sub County administrators put it, “their requirements determine the outcomes of the forum.” Administrators take inputs from citizen forums in wealthier areas more seriously because they perceive wealthier residents to be more educated and informed. On the other hand, citizen forums in poorer areas are not well attended as poorer residents do not have the luxury of attending forums as they are busy making a living as stated by officials interviewed:

You know Karen is a very upper-class area... but in this Sub County we also have slum areas which are approximately an hour from Karen ... when I go there I'm afraid of getting a lot of idlers, I want serious people to come – Colin, Sub County administrator.

In the more affluent areas you find people who are more educated and informed, they know the roles and duties of the County, so they know what to ask...this is not the case when we go to poor areas – Paul, Sub County administrator.

In our Sub County, it is mixed. We have middle and upper class, but the large chunk of the population is actually in the lower class... We also have informal traders and as much as you would like them to attend, you can give them a time, but they also don't have time to leave their goods – Herbert, Sub County administrator.

Participants at the capacity building workshop also expressed fear of conducting citizen forums particularly in poorer areas due to their unemployment and idling status. Administrators voiced fears of how poor residents are more susceptible to be used by politicians and elites for the purposes of political interference and hijacking of citizen forums for political point scoring which sometimes leads to violent confrontations (Calla Research Report, 2016). Sub County and Ward administrators also expressed during the workshop discussions the need for more security at public participation meetings especially in low-income areas, as there are often “disruptive and drunk people who attend and cause problems” (Calla Research Report, 2016:27). Politicians who seek to exploit the vulnerability of the poor who see holding citizen forums in poorer areas as mostly useful for achieving political interests. One Sub County official described the poor and high-density areas in his jurisdiction as having “political potential” which politicians seek to exploit for votes. This brings into question the extent to which inputs raised in these forums are truly pro-poor and inclusive.

Ward administrators are also fearful for their safety as they know people living in poor and disadvantaged areas are angry and upset (from being marginalized) and they do not know how people will react stating “there can be vicious fights and vulnerable groups may fear engaging in the processes” (Calla Research Report, 2016: 27). These tensions are also said to be exacerbated by the lack of service delivery in these areas and the citizen perception that government does not care about poor people. According to the workshop report “fights happen due to a lack of implementation of projects discussed by citizens last year” (Calla Research Report, 2016: 27). The experience of high levels of tension between administrators and residents of poor areas at public hearings was also confirmed during an interview with a County official whose Sub County mostly consists of low-income households.

My ward can generally be described as a low-income area. It is a slum area within Mathare but overall within the Sub County it is a mixture of low – middle income. It is difficult to hold public participation in such poor areas because of the sense of frustration that the residents feel, a lack of satisfaction with the work of the County government – Jonathan, ward administrator.

Administrators confirmed that they hold different citizen forums for the poor and the wealthy as part of targeted participation. The administrators justify this on the basis that residents want to attend forums in familiar surroundings as well as in areas easy to access. They also say they have very different interests and combining both classes is logical given the spatial divide but also because it could create challenges for engagement. As one official described:

There are different needs for different clients...On one hand you have a lot of business investors spending huge sums of money in one part of Nairobi such as Upper Hill which is just one ward in Kibra and then on the other side we have one of the biggest slums Kibera. There are differences in the way we engage, we engage separately, the business people from those who live in the slum areas. – Kwame, Sub County administrator.

In an interview with a County official whose Sub County (Kibra) consists of mixed income groups. He clearly stated that there were differences in the inputs and in what poor and wealthy participants prioritized during public participation meetings. He also alluded to how outcomes of public meetings can be determined or influenced by the needs of that particular class by explaining that “the class determines the needs voiced, captured and prioritized as well as the outcomes of the forums.” Given the bias by administrators towards facilitating participation in affluent areas as well as the increase in opportunity and ease in facilitating participation among the wealthy, there is a very real possibility and risk that wealthier citizens needs are being prioritized above the needs of the poor.

There is clearly a fearful and dismissive attitude towards the poor or working class by administrators who are perceived to be rowdy and uneducated idlers who are used by politicians for votes vis a vis a more enthusiastic and welcoming attitude by administrators towards engaging the wealthier populace who are labeled as educated serious investors and big clients who are a source of income to the Sub County and County. When there are competing interests and limited resources, the attitudes of administrators can play a role in influencing who is engaged and which interests in the end get prioritized.

6.4 The inclusion of women and vulnerable groups

Among the goals of the capacity building workshop is to capacitate County officials with an understanding of “the concept of gender perspectives in budget process, including mechanisms

to effectively engender the process” (Calla Research Report, 2016: 6). According to Article 35 of the *Constitution of Kenya* and Section 254 of the *PFM Act* County governments are obligated to promote access to minorities and marginalized groups and communities. Analysis of observation notes and discussions held during the workshop session on ‘engendering’ the budget processes showed that there were problems with the inclusion of women and vulnerable groups.

The inclusion of women is affected by how they are treated in society in general. The predominant religion in Kenya is Christianity with approximately 85% of the Kenyan population ascribing to be Christians and 11% Muslim (KNBS, 2013). Public meetings, institutions and public servants are very much faith based and ascribe to the Christian worldview. During the capacity building workshop, prayers were said to open and close the workshop and when breaking for tea or lunch. Religion, particularly the Christian worldview, influences the work of the County officials. Attitudes of Ward administrators regarding the role of women and their plight are conservative and very much rooted in the Christian religion and Kenyan culture. Across many cultures in Kenyan society, men are the decision makers. Women who challenge or resist male authority are considered disobedient (Mwangi, 2006).

During workshop discussions, administrators would often quote bible scriptures in reference to the role of women in society as home makers whilst men were described as biblically in charge as the natural leaders and decision makers in society. Thus, administrators were suspicious and skeptical of “liberal” worldviews and policies that seek to prioritize women above men in society which they described as “unnatural” and “unbiblical.” Furthermore, there is also a lack of understanding or appreciation of special challenges facing women when it comes to public participation and how as facilitators they are contributing to the problem. During the workshop, Sub County and Ward administrators felt that men and boys in society are not receiving that much state support. They perceive state policies as “favoring women” and putting resources towards women’s issues whilst leaving men at a disadvantage.

Both Sub County and Ward administrators’ positions are mostly held by men. It was also observed that as of August 2016 of the 17 Sub County officials, less than half (30%) were women and of the 85 ward administrators 25% were women (Nairobi County government website, 2016). Given such a low percentage of women in administrator positions, several Sub Counties did not have any female ward administrators. This could be partly explained by the

attitudes of the County administration which is to an extent influenced by their environment, culture and religious worldview. When asked about the role of women in society by the workshop facilitator, workshop participants responded using scriptural reference to the position of women in the household. Women were labeled as “naturally nurturers” and “not fighters”, and County officials expressed beliefs that women are naturally this way and that women should look to Biblical roles for guidance regarding how a woman should conduct herself.

An example was given of prominent woman in Kenyan society by the name of Nancy Baraza. She is the former chairperson of the Kenyan chapter of the Federation of Women Lawyers (FIDA), a state institution known for its strong advocacy of democracy, women’s and children’s rights. Ms Nancy Baraza was dismissed for what was considered to be an aggressive confrontation with another public official (Chege, 2017). Participants referred to her as an example of “unwomanly” behaviour stating that women should be gentle and quiet at home and in public. It was also observed that the handful of women in attendance at the workshop were mostly quiet and made very few contributions in a room dominated by male colleagues. There is a strong indication that the cultural and religious perception in Kenyan society that women must not be too vocal or too influential or argumentative with the men particularly in decision making. This attitude has potential to manifest itself in public meetings creating shortcomings for the meaningful participation threshold which maintains that multiple positions must be given equal opportunity and respect (Pimbert and Wakeford, 2001).

County officials attending the workshop expressed the belief that issues of governance, finance were masculine roles and this belief is transferred to participation meetings. During the capacity building workshop, the facilitator asked whether women attended public participation meetings in their jurisdiction. County officials described citizen forums as “heavily politicized” “violent” and “masculine” which in turn deters women and vulnerable groups from attending. Despite the cultural and religious beliefs concerning resources and decision making as the realm of men, male participants at the workshop disputed the notion that women were ‘endangered’ in the sense that very few women attended public participation spaces. County officials argued that more women than men attend public participation and thus cannot be ‘endangered’. This sentiment was agreed and confirmed by all County officials interviewed who also highlighted that the majority of citizens who attend public participation meetings are women. Some of the reasons provided for this was because most men are breadwinners who are occupied during the day and cannot not attend public meetings. Women on the other hand

were able to attend meetings since they were either self-employed or housewives and thus could find time to attend meetings. Others expressed that it was also because women were more involved in organised groups and they are the most affected by under development and thus were more likely to attend meetings. Interviewed County officials had the following to say:

More women attend, since they are mostly involved in groups so they often send their representatives but more women than men attend especially public forums... Most women are also in the homes, so women are more likely to find time to attend than men – Herbert, Sub County administrators.

In my career as a public servant I have worked at both national and local government. I have found women to be more active than men especially when it comes to issues such as development. I think it is because they are most affected by the issues that affect our community – Paul, Sub County administrators.

Almost every ward has a women's group so it is much harder to mobilize men – Shelly, Sub County administrators.

It would seem from the interview excerpts above that despite County officials cultural and religious beliefs about the role of women in society, in the end more women than men end up attending public participation meetings because of their availability as well as their involvement in organized groups.

Analysis of workshop discussions revealed that the male County officials understand or accept that women face challenges in society and in participation but at the same time administrators became defensive when they were told by the workshop facilitator that they were not doing their jobs properly if they are not focused on targeting women and women's issues. Cultural and religious views of men as the decision makers also appear to be influencing the attitudes of male administrators when engaging women in public spaces. There seems to be resistance to affirmative action and national policies that are viewed as 'too focused' on promoting women. Issues of gender are considered as a fight between men and women for limited resources potentially biasing public participation outcomes in a male dominated governance sector.

6.5 Conclusion

The chapter found that poor attendance at citizen forums is a challenge for Nairobi County government. Poor perception of local government by citizens as well as low levels of trust between citizens and the County also contributes to poor attendance. This chapter has given us a glimpse into citizen attitudes and perceptions of Nairobi County's citizen participation

mechanisms as far as meaningful and inclusive participation is concerned. Poor attendance by citizens has been attributed to the absence of key features identified by Pimbert and Wakeford's (2001) Deliberative Inclusive Processes listed in Figure 2 (section 2.4.) The chapter has revealed that citizen attitudes and perceptions towards County led participation is negative resulting in poor attendance and at times a complete lack of engagement. The chapter has also shown that Nairobi County citizens lack of satisfaction with public participation can be explained by the lack of i) careful consideration, debate and discussion of reasons for and against ii) discussion and presentation of positions and perspectives based on information and evidence iii) multiple positions given equal opportunity and respect iv) unhurried, reflective and reasonably open-ended discussion and vi) accurate and accessible information on resource performance and service delivery.

This has resulted in a lack of consistency and an inappropriate use of mechanisms of representation by Sub County officials. The use and abuse of representation mechanisms calls into question issues of legitimacy and whether representatives are truly representative of all the social groups in the community. The lack of guidance and oversight over Sub County administrators use of representatives to hold citizen forums has undermined meaningful engagement, equity and inclusiveness of participation processes and spaces. In addition, there is the issue of the legitimacy of representatives who are not selected by the people but who are selected and paid by the government. Lastly, unequal power dynamics between state and non-state representatives also need to be addressed if there is to be truly meaningful and inclusive participation. The use legislation does not at all settle the challenges of using representatives as a participatory method. The use of *barazas* or informal meetings by some Sub County administrators shows that the partnership between local government and organised groups to facilitate public participation is going to require more than legislative guidelines. It will also depend on the level of trust and confidence as well as shared goals between the state and non-state actors which are critical for a successful partnership (Brinkerhoff et al., 2007).

In addition, this chapter has found that it is easier for local government officials and policy makers to access more wealthier and more educated community elites than engage with the communities' poorest. Class and inequality differences therefore are a huge obstacle to ensuring inclusiveness and equal opportunities to all citizens in participatory governance processes. It has also highlighted the dominance of male perspectives and masculine attitudes in Kenyan society which serve to undermine and further exclude women from participation

spaces. These attitudes in turn undermine the extent to which women's inputs are considered seriously, understood and appreciated by a male dominated governance sector. The next chapter shall now take a closer look at citizen experiences and attitudes towards Nairobi County's participatory mechanisms.

Chapter 7: Taking back the power: Citizen attitudes and experiences of formal participation spaces in devolved Nairobi County

7.1 Reclaiming the power of citizen participation through informal spaces

This section will look at how the residents of Nairobi through Residents Associations have re-claimed, re-imagined and re-defined participation in governance matters using informal spaces of participation such as citizen led or organised community initiatives. The section will also explore how citizens are framing participation in accordance with terms and standards that are satisfactory to them. The section will also analyze the activities of associations in relation to citizen participation in County governance.

7.1.1 Reasons for the formation of Residents associations in Nairobi

Residents Associations are structures which are formed by people residing in a particular location who organise themselves to address and improve issues in their locality and speak on behalf of their local community (Echessa, 2010; Mapuva, 2014). A group of local residents come together so as to share ideas and collectively work to make their neighbourhood a better place to live. As such, “Residents Associations are formed by residents to engage with local authorities and central government regarding the undesirability of some of the policies and service delivery practices” (Mapuva, 2014: 168). By organizing themselves to speak as one voice, residents are able to exert more pressure on authorities and empower themselves to achieve their goals.

Studies that have examined the role of residents’ associations in urban service delivery in Nairobi trace the emergence and popular rise of Residents Associations in the late 1990s and early 2000s when urban service delivery had declined seriously as a result of local authorities’ mismanagement and financial inability to provide basic services (Echessa, 2010; Hendriks, 2010; Mitullah, 2004, 2008; Myers, 2011). Other reasons cited for the decline in urban service delivery in Kenya is the overwhelming rise in needs and challenges of providing public basic services caused by rapid expansion of Nairobi and its population increase. In response to governance failures of the local authorities and deteriorating basic services, Nairobi residents formed Residents Associations. Due to the overwhelming challenges faced by local authorities, community-based associations emerged as a way to supplement the efforts of local authorities to fill the gaps in public service delivery. Interview data with the Residents Associations confirmed this notion, highlighting the emergence of these associations as a result of a lack of

service delivery and growing frustration and loss of confidence in local government capabilities.

Dandora Transformation League (DTL) is located in the Eastern side of Nairobi in Embakasi Central Sub County. The suburb of Dandora is an extremely poor area as well as home to the largest dumpsite in the country. Dandora is described as being in a state of disrepair, littered with dirt and overflowing sewers pouring into the drainage system (Onganji, 2016). It also has a high crime rate and a problem of youth unemployment and gangsterism (Onganji, 2016). DTL was started by a group of young residents in 2013 who were fed up and frustrated by the poor state of Dandora as a result of what they perceived as neglect by local authorities:

The local government in the area used to provide services in the 1980s such as clean the drainages, spray for mosquitoes, pick up garbage, provide security, maintain street lights, sewer systems etc.... everything ran perfectly then but over the last 30 years, the County government has never set foot in our community again...The league was started as a response by the community to fix the community and restore it to its former glory – DTL CEO.

Secretary of the Kilimani Project Foundation (KPF) also references the collapse of local government services as the reason behind the emergence of the Residents Associations and not only in their area but in most middle -high income areas, because most local residents have decided “to take matters into their own hands.” Located in a middle – high income area in Dagoretti North Sub County, Kilimani Project Foundation was founded in 2013 by residents who wanted to “chart a new vision for their community” based on a public meeting organised by residents who wanted to see improvements in relation to safety, security and cleanliness (Kilimani Project Foundation, 2016). The secretary of KPF provided some historical background to its establishment by stating:

Local government services over the last 30 years such as water services, pollution, garbage collection, street lighting and general basic services over time have gone into serious decline. The city council became overwhelmed among other reasons by the growing Nairobi population... and it is against this back drop, that we had to decide what are we going to do amongst ourselves to address some of these challenges that the local authorities were failing to address– Secretary of Kilimani Project Foundation.

Similarly, The Old Race Course Estate (ORCE) Residents Group is a Residents Association formed by locals as a response to failure by the local authority to fulfill its mandate and deteriorating basic services. The group now seeks to restore the area to its “glory days.” In an interview, the secretary of ORCE Residents Group explained:

The residents group was established 20 years ago. Initially it started when the residents got tired of a number of issues in the area... The biggest issue we have is garbage collection and removal, poor lighting, poor roads, roads not being refurbished. We also have quite a number of illegal businesses operating in the area... Our Residents association is about bringing back the glory of the estate.
– Secretary of the ORCE Group.

The Karen Langata District Association (KLDA) has been in existence for 75 years and its mandate has thus been changing over time. It started out as an association of colonial settlers guarding their interests against the state. In post independent Kenya, the association has become diverse, accommodating all races and representing and defending the interests of those who live in the area to local authorities (Echessa, 2010). Over the last 17 years, KLDA has been embroiled in legal battles with the local government authorities over inefficient services. Unlike other Residents Associations, KLDA's mandate is not only about "restoring the glory" of the area but about holding the local government to account for lack of services in the area. The Director of the KLDA put it in an interview as follows:

The problems we normally face in the area include, electricity, water, development control, security, the usual things. Our mandate since then is to ensure that local authorities are held accountable to the social contract that they have to the citizens particularly to those who live in the area - Director of KLDA.

KLDA was among the founding members of Kenya Alliance of Residents Association (KARA) which was formed in 1999. KARA was formed out of the need to tackle service delivery challenges being faced by residents particularly in the urban areas with a more unified and structured voice "as an umbrella organisation to coalesce with a mandate to represent the tax payers "in demanding for transparent and accountable leadership (KARA, 2017).

Nairobi in the 1980s reflects Kenya's ailing local government system. In 1985, The Nairobi City Council was suspended and temporarily administered by erstwhile Ministry of Local Government for ten years a result of corruption, mismanagement and service delivery inefficiencies (Stren et al., 1994). In the last two decades since the Ministry of Local Government stopped administering the Nairobi City Council and since the adoption of the new Constitution and devolution, services have not improved, and the local authorities continue to be plagued by mismanagement, inefficient and poor quality of service delivery (Hendriks, 2010; Muriu et al., 2014; Rocaboy et al., 2013). The ineffective delivery of services by Nairobi's local government has been the main factor behind the growing popularity and rise in community-based initiatives in particular Residents Associations. So significant is the rise that

the Nairobi County government drafted a *Residents Association Bill* which was passed into law in August 2016 by the Nairobi County assembly. The Secretary of Kilimani Project Foundation put it plainly in an interview by highlighting:

Now we have such a proliferation of Residents Associations to the point where there is now a need for a Residents Association bill and the County government has been forced to recognize us – Secretary, Kilimani Project Foundation.

Associations were formed to address Nairobi's local government failure to provide services mostly in the areas of security, refuse collection, street lighting, roads, planned development, infrastructure maintenance, poor city planning, environmental degradation, water and sanitation. The main reasons of associations forming was to rebuild, restore and replace local authorities in providing these services whilst others were formed in order to empower citizens to demand for better services and an accountable local government.

7.1.2 Residents associations, the meaning of participation and trust

Participation is a very broad concept (Lane, 1995) which holds different meanings for different people (Hussein, 1995; Kelly 2001). Depending on one's ideological position, participation can produce a range of competing interpretations, models and applications (Nelson and Wright, 1995; Pelling, 1998). This section will unpack the various meanings of participation held by Nairobi's Residents Associations by analysing the vision and or mission as well as the goals and structures of each Residents Association interviewed. See Annexure F for a summary describing each Residents Associations vision, mission, goals and membership structure.

Annexure F shows how despite Residents Associations being different in terms of goals and membership structures, there are some core similarities at the centre of all these associations. For example, local residents come together to address neighbourhood concerns such as poor city planning, safety, housing, street lighting, or basic services. To Residents Associations, participation means organizing for problem solving particularly around very specific and shared concerns. Participation is also about a sense of community, social identity and belonging which all play an important part in bringing about a cohesiveness or a shared approach and commitment to problem solving. The Head of DTL explained in the interview "members of our group have been through a lot together, we know the pain that comes with living in a place like this and that's what makes us work together as brothers and sisters for a better future."

According to social capital theorists the purpose of setting up associations is to garner power and resources from social relations for productive benefits (Coleman, 1990; Field, 2003; Putnam, 1993). GilChrist (2004) and Narayan and Woolcock (2000) argue that community relationships and participation is more than just self- help, it is also about the community regaining power and control over things that affect them. All the Residents Associations interviewed describe their vision and mission along the lines of establishing platforms, creating opportunities and capabilities for citizens to influence local governance, service delivery, urban development, environmental management, safety and security. They also speak strongly about seeking greater power and control over development policies and projects which tend to have a direct bearing on them. For Residents Associations, their understanding of participation is about establishing and entrenching power in public policy processes from the moment of formation and planning right through to implementation. For other Residents Associations such as KARA and KLDA, they go a step further by expanding their interpretation of participation to mean a process through which the local populace's interests are taken into account and influence policy priority setting, resource allocations and access to public goods and services. Dandora Transformation League has modelled its work and the structure of their association along the following "Principles of Participation"

- Everyone is welcome
 - In the street we are equal
 - For and by the people
 - So much you can do
 - No commercial character
 - Celebrate our work together
 - Leave no trace (Clean up after each activity)
- *Taken from the Dandora Transformation League "Principles of Participation" pamphlet*

Figure 7: Dandora Transformation League “Principles of Participation” pamphlet



Dandora Transformation League “Principles of Participation”

From the principles listed above, one can ascertain that what participation means for the DTL. The meaning of participation is based on values of equality, and equal space where everyone has equal opportunity to contribute. Participation is also people driven and an opportunity for genuine empowerment. Participation is also about having the freedom to engage in multiple activities and choosing to engage in an activity that one desires. Participation is neither limited nor exclusive but open and can take multiple forms and characteristics. Most importantly, participation is a collaborative or communal social activity creating relationships and bonding participants to each other. Participation is also not passive it is about ownership and collective responsibility. How citizens understand and define genuine participation is a critical part of managing expectations and creating sustainable engagement of participation. Diverse ranges and perceptions result in frustration and misunderstandings as demonstrated by the head of DTL in this statement:

This (*pointing to ‘Principles of participation’ leaflet*) to us is participation.
What we do in those budget meetings is not participation – DTL CEO.

There currently appears to be a disconnect or lack of alignment between County government participation structures and policies and actual perceptions and expectations around the concept of participation by citizens. For Residents Associations based on their vision, mission and goals, they interpret participation to mean equality, inclusiveness, influence, voice and

empowerment. Participation is also about relationships of trust, qualities that seem to be lacking in the formal spaces.

Trust is an essential and critical part of how associations are structured and formed. This principle of trust is thus the fuel that greases people's willingness to join associations and participate in community activities (Putnam, 1995, 1998). Residents Associations interviewed lamented the high levels of corruption in local government and demonstrated a lack of trust with anything associated with the County government administration. All Residents Associations interviewed stated that they did not have complete trust in the formal spaces created and the officials that facilitate them. The latest round 7 of the 2016 *Afrobarometre* Kenya survey revealed that 80% of surveyed participants believe that the office of the County governor is corrupt and only 21% of survey participants said they trusted their County governor a lot. A closer look at the 2016 survey data by County indicated that 70% of Nairobi survey participants perceive the office of the County governor to be corrupt.³⁹

In the end, Residents Associations particularly said they did not have faith in the formal participation spaces being fair and free of corrupt influence as demonstrated below in the following interview excerpts:

If you speak to most people, they will complain to you about how planning and development is such a mess in Nairobi. There is no way to explain it except to say corruption... It's corruption pure and simple. How can I be expected to engage with such a people (County officials)? Trusting them we cannot. To trust them no, not in a million years - KLDA Director.

A few months ago, sometime this year (2016) Governor Kidero initiated a National Youth Service Programme (NYS) in Dandora and it was estimated they were spending Kshs 1 billion per day... They are rumours that money was stolen and used for other purposes and not for improving Dandora area... – CEO of DTL.

We have done a lot of research around illegal occupants and businesses in this area ... the County government is also receiving payments from these illegal businesses and they (County government) are thus inviting them to attend these public meetings. At the end of the day how can they (County government) act in our best interests? How can we trust them to make a decision against the people they are receiving money from? – Secretary of ORECG.

³⁹ A Breakdown of Afrobarometer survey data to this question by County was provided by the Afrobarometer Survey offices upon request by the Researcher

Citizen forums are being undermined by the poor perception and poor reputation of local government as being run by corrupt officials who are influenced by elites or people with agendas to implement decisions in their favour. The interview excerpts indicate that some Residents Associations do not believe that local government officials are capable of making impartial decisions due to the possibility of receiving payment from elites and non-elites alike to influence decision making processes thereby making participation in formal spaces useless, purposeless. There is therefore a loss of trust in the forums which are perceived as having been ‘captured’ along with the decision makers by those who have vested interests.

The absence of social capital and trust between citizens and local government authorities works against the spirit of participation. This absence is prevalent even amongst citizens and within communities themselves. The ORCE Residents Group pointed to the fact that they did not all see public participation as a panacea, but at times as a source of tensions for their community. The manner in which County government facilitates the participation spaces ignores the political power and social dynamics and assumes consensus, cooperation and willingness to compromise within the community members. It fails to take into account pre-existing divisions in the community. Secretary of the ORCE Residents Group described in an interview how County government public participation was creating tension and divisions within her community below:

We have engaged with the County government in its old and new form over the last 20 years, the experience with public participation meetings is that they (County officials) have a tendency to call together the residents of this area as well as the illegal occupants and businesses to the meetings...How are we supposed to all engage when we are not on the same wave length? When we want different things and have different interests? This all-inclusive, all-encompassing approach to public participation is not very effective or productive, its actually adding to the problem – Secretary of ORCE.

7.1.3 How Residents Associations reclaim and exercise the power of participation

Residents Associations are concerned about providing legitimate and trustworthy representation, empowerment and voice to citizens particularly when it comes to engaging with government policy or service delivery related issues. Interviews with Residents Associations reveal that they associate formal government spaces and the newly devolved government structures as useless and powerless to help them. Their experiences and perceptions of the newly created citizen participation spaces have thus far been disappointing and fruitless. This is because not enough decision-making power and resources have been devolved to the Sub

County and ward administrators. As a result, Residents Associations do not see the value or the use of engaging in citizen participation opportunities. Below are a few examples taken from interview extracts demonstrating the powerlessness of formal spaces and decentralised County officials as experienced by the Residents Associations:

Sub County and Ward administrators have not been empowered to help the community even though they do engage and consult and encourage participation. So, despite raising issues, and making requests at participation meetings, nothing ever changes – CEO of DTL.

...In terms of the effectiveness of the Ward administrator's powers and abilities to take up issues and resolve them, that has been an issue. The ward administrators are limited in their abilities so then we take up the issues with the County Executive – Secretary of Kilimani Project Foundation.

I think a lot of the things are still in head office (County city hall office) ... the Sub County offices have very little power to do anything. It is a fact that the Sub County offices have not been empowered so how can they now go and empower us? –Secretary of ORCE.

We have had four such experiences where we have complained to the Ward administrator about x y z and then the ward administrator was told to leave it alone. So, they do not have any power. Ward administrators are powerless...this is not just a problem in Karen, it is the problem of every ward administrators for that matter – Director of KLDA.

During interviews Residents Associations pointed out that leaders and members of the association do not like to go to citizen participation meetings organised by the local authorities. This is because leaders and members of the associations do not feel properly consulted at citizen forums. They also pointed out that these meetings are usually used by local authorities to inform them of decisions already taken on the County budget, plan and policy priorities. In a few instances where they are given an opportunity to make input and not just simply be informed, they engage in a process of wish listing without any deliberation of formal decision-making authority. The head of the Kilimani Project Foundation outlined his experience of the forums as follows:

We basically go through last year's resolutions and we look at what had not been achieved from the previous year, which is basically 80% of what had initially been proposed and then we come up with new resolutions from this year - A lot which is repetition of things that have simply not been done in the previous year plus a few new things we think about – Secretary, Kilimani Project Foundation.

Furthermore, no policy documents are shared or discussed at the meetings. According to the head of the DTL since the introduction of citizen forums in their area in 2014, "citizen forums

are often used as information meetings where we are told, this is the budget, and this is what it will be used for.”

The lack of decision-making power by Sub County administrators coupled by the lack of meaningful engagement as well as poor organisation of the citizen forums dissuades citizens from participating in the citizen forums organised by the local authorities. Members of the Residents Associations are not properly consulted because the leaders of the associations complained that they are usually invited to attend the participation meetings at such short notice thereby leaving very little time to thoroughly inform and consult their members.

Another challenge identified by Residents Associations is the time at which citizen forums are organised by pointing out that citizen forums are held on a week day during working hours making it difficult for their members to attend. Leaders of Residents Associations pointed out how difficult it was for employed members of their association to attend meetings during working hours. Citizen forums are therefore poorly attended because they are poorly organised and facilitated. This point was emphasised by the head of KLDA who said:

I don't really bother with them (citizen forums) personally because I have been engaging with the local authorities for 15 or 16 years and in all that time those meetings have been poorly organised and they have never taken anything seriously. That is reason number one, reason number two is they would have already decided for themselves what goes in those documents.... They basically hold those forums to check a box – KLDA Director

In some instances, public participation meetings do not happen at all due to the fact that the Sub County and County headquarters fail to coordinate when planning citizen forums. The Secretary of ORCE Residents Group explained in an interview how she has ‘never really’ attended a participatory budget meeting because in her attempts to attend no County officials showed up for the meetings due to poor coordination and management between Sub County officials and County Executive office. She relayed her experience as follows:

Last year I received an invitation from the Ward administrator, to a budget meeting and we went but they (administrators) never turned up. The next time I spoke to my ward administrator, they tell us that it is not them who are organizing the meetings, it is the county head office. He just explained that as ward administrators they are asked to mobilize, beyond that they did not know anything else. When we attended this year's (2016) budget meeting, our Ward administrator kept telling us he is waiting for the people from the County head office. After waiting for 2 hours, we gave up and went home. – Secretary of OREC Residents Group.

Given the limitations and poor experiences by associations with formal citizen participation spaces, Residents Associations have had to rely on alternative methods and ways to influence policy and service delivery issues. These alternative methods of participation are a symbol of not giving up but of persevering against all odds. Residents Associations truly believe that despite citizen forums not working in their favor, there are still other alternative methods of participation that will yield better results. Alternative participation activities by Residents Associations are not uniform. The type of activity or strategy employed by the association is influenced by socioeconomic factors such education, occupation and income (Olima, 2013). Depending on the socio-economic status of the association, some methods are more or less viable. The next section explores the different methods applied by different associations.

7.1.4 Alternative methods of direct engagement and collaboration

One alternative method of participation employed by Residents Associations is to engage directly with County government officials or engage in other County government structures that have decision-making authority and resources and overlook the citizen forums that happen at the ward and Sub County levels. All Residents Associations indicated that they would rather directly engage the County Executive offices because at the very least one can get help there. Director of KLDA described any attempts to engage the Sub County administration as “a waste of time because they do not have resources and cannot make decisions.” Residents Associations also explained instances where the Sub County officers themselves turn them away and advise them to engage directly with the national government which also has more power and resources and are thus more effective and preferable to engage. The secretary of the ORCE Residents Group illustrated such circumstances in an interview:

There have been many times I have gone to the Sub County office and I have been told, I do not think we can help you here, go and see the Minister...If I go to the Ministry of Planning offices you can see computers, equipment, you can see paperwork and that people are working ... The Sub County offices have little to no equipment, mostly a desk and a chair.

The director of the Kilimani Project Foundation described how effective their strategy of engaging directly with the Ministry of Roads immediately resolved a problem with flooding in the area due to a poor drainage system. He explained that this was a much more strategic and effective because “you are able to hear what is possible, what can be done or cannot be done and when.” This is something which is not possible to ascertain during budget meetings since meetings were mostly wish listing and the Sub County administrators had very little information. Furthermore, the director of Kilimani Project Foundation further explained that

engaging directly with the County Executive is considered a much faster response since “there is no need to wait for another 6 months for the next public participation meeting.”

Secretary of ORCE Residents Group described “the use of other initiatives to help improve the situation.” She described similar circumstances to which the residents group opted to directly engage with other parallel platforms created by County Executive “the Deputy governor of Nairobi has started a new initiative called *Clean up Nairobi*. We are also going to go and try and see him to see if we can get any help.”

The KLDA has also found this approach to be more effective. The director of the KLDA stated that “our greatest achievement as a foundation is to drive a specific agenda directly to the County outside of those public participation budget meetings.” The director explained how in 2005 the KLDA managed to bring together the Ministry of Lands, City Council, Nairobi Environmental Management Agency (NEMA) and the residents of the area into one place to discuss the aspect of development control. That was the first and only direct participation encounter they had ever had with any government entity and the outcome of that interaction was the *Karen Langata Local Physical Development Plan* gazetted in 2006. The director of the KLDA had also pointed out that they had funded and organised the meeting, “it was the initiative of the KLDA not of the local authorities” he said.

The option of direct engagement with the Executive and bypassing public participation meetings however is not always an option especially for the low-income Residents Associations. Unlike the middle – upper income associations such as ORCE, KLDA and Kilimani Project Foundation. The DTL did not command the necessary authority or financial resources to get them an audience with County Executives. The head of DTL went on to state:

The League would like to go see the national government and the County governor to help us with issues here in Dandora but we are limited in terms of tools and resources – CEO of DTL.

Their ability to access County directors and Executives is extremely limited and in actual fact the DTL lamented how their low-income status attracts the wrong kind of attention, the kind of attention that does not help the plight of their low-income members but rather the political agendas of the local authority elites:

We have received visits and caught attention of some key people in government and Kenyan society so that they get some publicity and get some

support from the locals but unfortunately no resources or concrete assistance has been provided either to the area or the league itself – CEO of DTL.

Furthermore, unlike middle – high income Residents Associations who have enough resources to deliver their own services such as pay for their own security, roads, water, electricity, low income Residents Associations cannot afford to completely by pass the citizen forums and disregard local authorities. Middle and upper-class Residents Associations also have the option to by-pass certain local authorities as well as the option to not attend meetings. Unfortunately for the DTL they still need to rely on the support of local authorities' powers including ward and Sub County administrators who can help them obtain the necessary authorization DTL needs to implement their own community projects. Urban service delivery still demands a partnership between community groups and the local authority (Brehm and Rahn, 1997). Residents' Associations are important service providers and in peri-urban and informal settlement, they may be the only service providers. This however, does not mean that they can usurp or do without the duties of local authorities as expressed in an interview by the head of DTL:

We are tired of waiting on empty promises and attending meetings that do not yield any results...despite the disappointment and the frustrations, we have not completely given up on engaging with County government... As much as they (County government) let us down, they are very crucial, we have found we can't completely do without them – CEO of DTL.

To a certain extent even the middle - high income Residents Associations still need the power and authority of local government administration. Instead of abandoning or walking from citizen participation spaces completely, some have decided to persevere with the citizen participation spaces and fight for the kind of meaningful citizen participation that they want from local authorities. They also feel that citizen participation is their right as enshrined in the Constitution and they are willing to fight for that right. It is also out of a firm conviction that public resources belong to the people and that as tax payers, they must fight for better consultation and decision-making power over how public funds gets used. Secretary of ORCE Residents group emphasised that:

Despite the many challenges with the citizen forums and participating with the County government, I will continue to keep participating and the reason is this: I have a say in how we use our money because I pay rates and taxes then of course, participating will be to my benefit. So, for me I will keep attending and the reason I would attend is to make sure that our interests are covered. - Secretary of ORCE

Another alternative means of participating more constructively is through collaboration and collective mass action. By working together with other groups or other organisations, associations feel they have more power to influence decisions and set the terms of their engagement. Associations believe that by working together in groups, it is much tougher for local government authorities to ignore or dismiss them. Furthermore, they believe that engagement with local government is more productive and they carry more influence in numbers unlike poorly attended forums where they lack voice and their power as citizens is diminished. ORCE Residents Group Secretary explained the logic behind their collaborative strategy in an interview:

Another option we are considering for Starehe Sub County is to get all the Starehe residential estates or areas together and see if together we can make an even bigger impact. If you go as one estate, they have the choice to listen to you or whether to not listen to you ... So, it's like you are helpless at some point so that's why we are trying to work in groups – ORECG Secretary.

KARA shared during an interview how they are applying a similar collaborative strategy with donors such as CIDA. KARA partners with development partners on how to train and capacitate County government how to inform and empower citizens as well as citizens on how to engage their County leaders and representatives so that their views can be heard and counted especially around county budgeting and planning. A similar tactic is also being employed by the DTL who stated “we are currently looking for other partnerships that will help support our work” they also indicated that they are mostly looking for funding partnerships through development partners and the business community “in order to scale up our work since our initiatives are not part of any official County budget or plan” said the head of DTL.

7.1.5 Alternative methods of confrontation and co-operation

The KLDA expressed in an interview that the “the time for frustration is over. The time to fight for our Constitutional rights is now” and vowed that they would not just be frustrated but will fight for their right to be heard and to participate effectively. Residents Associations are frustrated and have lost confidence in government led citizen participation or formal citizen participation spaces. Others are re-claiming power by re-imagining and re-defining citizen participation principles and models. Directly engaging with County Executive or national government is one way of organizing and participating to address gaps or shortcomings which are not addressed adequately or entirely by the citizen forums and other formal citizen participation spaces.

Residents Associations are also using other alternative, aggressive and confrontational approaches to obtain more concrete and sustainable results and that is through litigating against government to legitimately take over local government authority and regain power to govern their own funds and set their own priorities. Another aggressive and confrontational approach to participation is through collective protest action in the form of withholding of rates and taxes. Residents Associations litigate to be granted permission to withhold local government taxes without repercussion. Explaining in an interview ORCE residents group stated:

It is allowed to petition the County government and inform them as residents that you will not be paying rates to them directly, but payments will be made to an external account approved and overseen by the courts. Citizens themselves manage how the resources are used. That way we take back the power – ORCE Secretary.

Members of Residents Associations do not want to participate in spaces that are ineffective but are looking for alternative ways of organizing themselves for concrete solutions and results. Some Residents Associations have lost confidence in these formal participation spaces and are choosing instead to exert their efforts into what they consider to be more meaningful and powerful forms of engagement which are likely to yield concrete and sustainable results such as litigation and protest action. Litigation and withholding of rates although considered to be effective by Residents Associations, are also thought to be expensive and risky approaches and thus are employed as the last resort since withholding of rates without court approval is a serious offence and Residents risk arrest and their properties being possessed by local government authorities. About 76% of surveyed participants in Round 7 of the Kenya 2016 *Afrobarometre* survey said they would never refuse to pay tax or a government fee when dissatisfied with government. A closer look at the data by County reveals that 60% of Nairobi County participants would never refuse to pay tax or a government fee when dissatisfied with the government but 25% said they would refuse if given the chance.⁴⁰ Kilimani Project Foundation Director indicated in an interview “a lot of residents end up paying taxes even though they are unhappy with the services because not paying taxes is a serious offence, no one wants to get their house repossessed or attached to settle outstanding rates.”

⁴⁰ A Breakdown of Afrobarometer survey data to this question by County was provided by the Afrobarometer Survey offices upon request by the Researcher

These fears were once again voiced during an interview with the Secretary of the ORCE Residents Group who pointed out the residents group was approaching its last resort and that all effective options were on the table:

Right now, there is a big movement by residents of Nairobi to try and restore order in the capital. And every time we have meetings we discuss our options, and we ask ourselves why do we keep going to these participation meetings and government offices to do the same thing. Can't we do something different like going to court? And that is our next option is if by the end of this year, nothing changes, we are going to stop paying our rates. Instead we will collect the rates amongst ourselves and make sure that we get the job done because at this point we don't see any benefit and we don't know where our rates are going – Secretary of ORCE.

Due to the high cost of litigating, this option is only available to upper income Residents Associations who can raise the required legal fees. For middle and low-income residents, this is an uphill task. The head of DTL mentioned that this option had not even crossed their minds given that “the legal route is quite an expensive route to take.”

Only one Residents Association has successfully taken the Nairobi City government to court and that is the KLDA. In 1999 KLDA on behalf of residents of Langata Sub County were granted a court order which exempted them from paying rates to then City Council of Nairobi because of the misuse of funds (Daily Nation, 2015). However, in 2015, the High court rescinded the ruling on the basis of that the ruling was made under the repealed *Local Government Act*, which has since been replaced by the *County Governments' Act* (Daily Nation, 2015). KLDA are currently fundraising to challenge the latest ruling, to continue withholding rates. Speaking on behalf of KLDA members, the Director stated in an interview:

We were paying rates to the city of Nairobi but they were not delivering services they were meant to deliver so we ended up in court in 1999-2000. We won the case and we withheld rates from Nairobi city government till late last year (2015), a total of approximately Kshs115 million. The County government has since appealed the decision and they won so since 2015 we have resumed paying the County government rates but we have seen no improvement of services... In terms of paying for the high costs of litigation, we fundraise amongst our members. Right now we have managed to fundraise Kshs 800 000 and we plan to take the County government to court again. It was easier back then when we had a lot of money, now it is much harder – Director of KLDA.

The legal route is often unaffordable and time consuming. Other Residents Associations have opted for less confrontational and aggressive methods of engaging local government and have instead opted for more cooperative and capacity building approaches to engaging local government. Although they admit that formal participation spaces are not effective, their

response is to address the underlying reasons for the lack of effectiveness of these spaces as well as the lack of responsiveness by both the state and citizens. KARA and Kilimani Project Foundation identified the lack of state and citizen capabilities to engage meaningfully in these citizen participation spaces and are now working towards improving the quality of participation through capacity building of both local government and citizens on how to engage in meaningful participation.

Both KARA and Kilimani Project Foundation generally described their relationship with the County government as “good.” Both argued in the interview that they had taken a more cooperative participation approach because to them, the concept of devolution in Kenya is still very new to both citizens and government. They recognize that devolution has stages and that both the County government and citizens are currently undergoing “a learning phase.”

Secretary of Kilimani Foundation described the learning phase as follows:

We as a foundation along with our members are also in a learning phase with the County government, we are learning who is responsible for what, when and what are the various responsibilities of the County government – Secretary, Kilimani Project Foundation.

KARA explained that part of their duty or mandate of empowering residents is through “educating our members about the various responsibilities and persons within the County government.” Both Residents Associations do not solely blame the County government for the failures of formal spaces citing that some of their members and citizens were generally ignorant had very little knowledge about the existence of these (public participation) meetings and “not because the County has not gone out of their way.” Both KARA and Kilimani Project Foundation agreed that apathy existed especially among their middle-class membership based on the assumption “that somebody else should do it.”

Similar to some CSOs such as TISA, both KARA and Kilimani Project Foundation have embarked on a campaign to foster co-operation and promote good relations between government and citizens in order to create a bigger sense of ownership for Nairobi amongst its residents and government alike. It is for this reason that both Residents Associations opted for a more diplomatic approach and not take an adversarial or legal route like KLDA as signalled by KARA in this interview excerpt:

We take a more co-operative and less adversarial approach to engaging with County government. We see ourselves as mediators and spokespersons. Our strategy is to create “win –win” scenarios and workable solutions for all concerned parties, the residents and the County government. KARA would

rather invest in capacity building programmes, building the capacity of County government's ability to execute their duties as well as the County Assembly than to go to court – KARA Programme Officer.

KARA also indicated during the interview that they had assisted the Nairobi County government to create multiple engagement spaces and by creating governance networks they brought together multiple government and non-governmental stakeholders in multiple forums combining formal and informal spaces. This was done by establishing County Stakeholder Forums with their members in 16 Counties with the support of the Canadian International Development Agency (CIDA).

We (KARA) created County Stakeholder Forums which are citizen led forums. We have created additional informal spaces of engagement with the County government. We want to link the County government to their people
– Program Officer, KARA.

The objective of these forums according to KARA is to mobilize mostly members to engage directly with the County government on “inclusive leadership” and “public participation.” The forum consists of KARA members, non-members and various County government departments. Governance networks are therefore uninvited spaces for public policy formulation and implementation (Hendriks, 2010). They operate independent of the state through patterns of interaction, exchanges and relationships based on trust and open communication (Wilikilagi, 2009). KARA's County Stakeholder Forums are still new, only a year old so it was not possible for KARA to ascertain the extent to which the forums had reached its goals.

7.2 The struggle for power between Residents Associations and the Nairobi County Government

In 2015, the Nairobi County Government drafted and tabled *The Nairobi City County Community and Neighbourhood Associations Engagement Bill (Neighbourhood Associations Bill)* in the Nairobi County Assembly. The Bill was adopted and has become an Act as of August 2016 by the County assembly. At the time of interviews with Residents Associations, the *Neighbourhood Association Act* was a Bill being considered by the County assembly. A comparison between the Act and the Bill show that they are exactly the same which indicates that no amendments were made to the Bill before it was adopted. The only difference between the two versions is that the Bill contains a section titled *Memorandum of Objects and Reasons* which provides a justification and explanation for the proposed Bill.

The Residents Associations who participated in this survey had not thoroughly engaged with it to provide comment with the exception of KARA and ORCE Residents Group. They were all (with the exception of DTL), however, aware that the County government had made a public call for submissions as part of formulating the Bill. According to *Neighbourhood Associations Act No.4 of 2016*, the objective of the Act is firstly, “to establish a legal framework for the engagement between Residents Associations and the County government.” Secondly it is “to enable the County government entrench the principle of participation of the people as required by Article 10 of the Constitution” but thirdly and most importantly it is to “enable regulation of the activities of these associations so that there is an understanding of the expectations and incentives that are intended for them.”

KARA views this Act mostly in a positively light describing it “as a step in the right direction.” KARA argues that the Act aligns with their co-operative strategy by providing an opportunity for Residents Associations to have more say on how decisions are affecting them, especially on issues of urban development and planning. Section 6 of Act provides for the County government to recognise and enter into agreements with Residents Associations. The Act also establishes a forum for Residents Associations and County government that meets twice a year to discuss programmes of interest to the residents (*Section 11 of the Neighbourhood Associations Act*).

The ORCE Residents Group who were aware and had to an extent considered the *Neighbourhood Associations Bill* described it as an attempt by the County government to “control” the rise in Residents Associations and the power they yield in terms of raising fees to self-fund services which the County government is failing to do as well as to control the fundraising for legal fees for Associations seeking the court’s permission to withhold taxes. The power yielded by the Residents Associations and other community initiatives can be controlled through regulation of their activities and by providing a legal framework defining competencies and responsibilities of the neighbourhood initiatives and associations. Breen et al. (2016) argues that state regulation of non-governmental organisations is a way of seeking or maintaining greater autonomy over the provision of services and advocacy for policy change.

The *Memorandum of Objects and Reasons* section of the 2015 *Neighbourhood Association Bill* points as problematic that “some of these associations and initiatives have often times taken over certain functions that the authorities were meant to perform.” The Act therefore outlines which objectives and initiatives Residents Associations will be allowed to pursue in the spirit of “coordination and cooperation.” Part One of the Neighbourhood Association Act indicates that “statutory recognition” by the Nairobi County government shall be given to community and neighbourhood initiatives that complement County government service delivery and to those “that demonstrate a spirit of cooperation between members of the association and the County government.”

As outlined in sections 5 and 6 of the Act, the County government is opposed to any other form of engagement or citizen participation that is considered aggressive or non-cooperative. Section 6 of the *Neighbourhood Associations Act* forbids the County government from entering into any formal agreement or partnership with any Association that has failed to demonstrate the spirit of cooperation with the County Government. Section 6 of the Act identifies activities that satisfy the criteria of cooperation to include “the mobilization of members to pay to the County government rates and other fees”. Section 13 states that “successful engagement with the County government” may be rewarded by waivers on rates, fees and other charges (*Nairobi City County Neighbourhood Associations Act, 2016*).

Section 12 of the Act also prohibits an Association to engage in various forms of protest or demonstrations such as “restricting access to public places, erecting barriers of public roads, levying any fees on members of the public other than for the purposes expressed in this law or any other law.” This clause in the *Neighbourhood Association Act*, severely curtails Residents Associations abilities to participate in various forms of protest and prevents Associations from fundraising for legal fees to challenge the County government in court. The Act appears to be an attempt by the County government to reinstate its power and control by determining and setting the boundaries of when, how and for what purpose Residents Associations and citizen participation will be tolerated by the County government. It is questionable to what extent the *Nairobi City County Neighbourhood Associations Act* goes to “give further effect to Article 10 of the *Constitution of Kenya* as regards to the principle of participation” or whether this Act also serves to undermine the principle of participation.

7.3 Conclusion

The *Constitution of Kenya* does not define clearly what is meant by public participation therefore implementing public participation is envisioned differently by different stakeholders. To officials, relaying information and making sure people have consumed it is their interpretation of public participation and that is where they think their role begins and ends. However, to organised groups, public participation is measured by the quality of the meetings and deliberation of issues. It is also about people having information as well as decision making power over resource allocation and planning. However, public participation is being implemented in such a way that there is little to no deliberation, but merely people stating a series of items they would like considered or “wish-lists” without influence or any decision-making power. There is also limited information and feedback by officials regarding the citizen input being made.

This chapter has demonstrated the failure of Nairobi County’s newly established formal participation spaces to meet key DIP features for meaningful participation. Discussion and presentation of positions and perspectives is not based on information and evidence. There is no careful consideration, debate and deliberation of reasons for and against a particular decision being taken. Due to short notices and poor organisation and management of meetings, the forums are hurried and non-reflective. Furthermore, negotiations, public reasoning and dialogue aimed at mutual understanding is not taking place. This means that formal participation spaces are falling short of providing meaningful participation in public policy as stipulated in legislation and envisioned by Kenya’s devolution frameworks. As a result, citizens have become frustrated by the powerless and meaningless spaces of participation.

Citizens have thus turned to organizing themselves using informal spaces mostly through Residents Association as a way of reclaiming the power and meaningful participation in county affairs. Citizens are working together and participating in what they consider to be meaningful which is collecting fees which they have the power to decide how the finances will be used to provide services or if they can afford it fighting for the power to decide how their taxes should be used. These informal spaces also have key values such as trust as well as equal power dynamics thereby sustaining levels of participation. The goal of participation is being able to have power such as the power to deliberate and influence decisions in one’s interest. In the absence of power and trust, newly established formal participation spaces will always remain

weak, unsustainable and unsupported by residents. We now turn to the conclusion chapter to summarize key findings from this study.

Chapter 8: Conclusion

8.1 Study overview

Since the adoption of a new Constitution in 2010, the *County Government Act* (2012) and the PFM Act of 2012, County governments have been mandated to come up with County specific participation legislation, mobilization and consultation methods and mechanisms for engaging citizens in County budgets and plans. The study focused on Nairobi County the largest populated County, the most ethnically diverse, with the largest poverty and inequality gap as well as the wealthiest County in Kenya. It is also a County with a long history of local government service delivery failings, high levels of corruption and poor state-citizen relations (Hendriks, 2010, Olima, 2013). Under the new devolution era, citizen participation reforms raised hopes and expectations that Counties such as Nairobi County will successfully address poor service delivery, poor local government performance, non-consultative budgeting and planning as well as ensure inclusiveness and meaningful participation by all citizens in issues of governance (Centre for Devolution Studies, 2015).

This study looked into the implementation of citizen participation in public policy under Kenya's new devolved government more specifically the Nairobi County Government. Among the objectives of this study was to find out what participatory methods and mechanisms have been designed and established by the Nairobi County government. The study also sought to investigate the challenges and/or successes faced by the County government in implementing citizen participation regulations under newly devolved local government systems and institutions. Finally, the study sought to understand how local government officials and citizens experience and perceive the newly established methods/techniques of engagement in post devolution Kenya.

Using key features identified by democratic decentralisation theorists listed in Figure 1 and key features identified in figure 2 for meaningful participation as a lens by which to understand and interpret thesis findings, the thesis identified shortfalls in the features necessary in the operationalisation of democratic decentralisation as well as meaningful participation. This included under capacitation and resourcing of newly decentralised structures, poor mobilization, awareness and understanding of participation legislation and processes by administrators. Policy documentation is not always available and participation spaces were captured by elites excluding the marginalized in local communities in development processes. The devolvment of public participation, funds, decision making authority to the Sub County

levels was not supported politically by the County Executive and MCAs which meant the decentralised structures lacked sufficient resources, information and skill resulting in poor implementation of public participation. The lack of resources, information, poor mobilization as well as lack of decision-making authority meant public participation spaces were not meaningful in the absence of deliberation, unhurried reflective discussion, feedback and inclusiveness.

Indeed, scholars concur that devolution is not without its risks and does not necessarily lead to improved governance. This study has shown that devolution and citizen participation reforms work when regulations and systems are properly designed and implemented as well as understood and accepted by front line implementers. Authorization or legal frameworks supporting devolved participatory governance is not enough. They also need to be supported by sufficient abilities and resource capacities as well as political will to implement.

8.2 Citizen participation and decentralisation in Kenya: Theoretical conclusions

8.2.1 On the benefits of democratic decentralisation

Among the many benefits put forward is that by devolving power and resources to the local government level will result in greater citizen access to decision makers and provide opportunities for local needs to be prioritized. Devolution and participation are said to improve efficiency and effectiveness and government legitimacy, trust, and transparency. Local participatory approaches aspire to equalise the power relations by giving the marginalized a voice through facilitating their involvement in the design, implementation, and outcomes of public policies and development programs (Ackerman, 2004; Crook and Manor, 2000; De Renzio and Wehmer, 2015; Manor, 1999; Pritchett and Woolcock, 2004; Speer, 2012). Amid the plethora of largely positive accounts, there are scholars who are highly sceptical and critical of citizen participation and its benefits (Cornwall, 2004; Brock et al., 2001).

This study has revealed that none of these benefits are automatic or guaranteed. Despite devolving funds and providing opportunities for citizen participation in public policy, residents of Nairobi have not felt empowered, low trust levels between citizens and government and within local government itself remains unchanged and in fact the governance reforms seem to be fuelling the lack of trust. Citizen experiences and those of newly decentralised units including the Sub County administration itself do not consider the formal participation spaces as legitimate or genuine and have exposed how inefficient and ineffective local government is.

This study has revealed possible reasons as to why devolution and citizen participation reforms do not automatically result in purported benefits. The first reason is that devolution and local government has multiple layers. Governance reforms have approached and treated local government as one monolithic and homogeneous entity or institution which it is not. In reality, the institutional context in which public participation plays out consists of multiple levels of political and administrative role players at the County level, which in practice portray and deploy competing interests, priorities and tactics. The study revealed the different attitudes and challenges that exist within local government particularly between the central County Executive office and the decentralised Sub County structures. Both have different challenges, resource capacities, skills, attitudes and needs which require different strategies and approaches. Different and competing interests between County assembly members and the County Executive have resulted in the deliberate disempowerment of decentralised units and participation opportunities at the sub county level. This is done as a way of controlling the vote and maintaining popularity and power particularly in the poor slum areas. The politics of power are thus working against the goals of devolution which are to empower and give a voice to the poor masses.

Scholars argue that formal participation spaces are abused by ruling elites to rubber stamp and/or legitimize a wide variety of political agendas (Cornwall, 2004; Devas and Grant, 2003; Taylor, 1998) as a result decentralisation risks further strengthening local elites (Cheema and Rondenelli, 2007; Ribot, 2002). Among the many challenges said to face decentralisation is resistance from the local ruling elite. Ruling elite and dominant power forces do not only exist within local government. The study revealed the existence of power struggles and relations between MCAs and local government officials as well as within the Executive branch between the County Executive and Sub County officials to maintain decision making power and resources.

Within local government there is resistance by powerful ruling elites who do not wish to further devolve power and decisions to lower levels. In practice, devolution may happen in terms of transfer of power and resources between the two levels of government – national and local but thereafter it is up to the local government elites to further transfer power to disaggregated structures at the Sub County level. The study has pointed to an absence of acceptance and commitment or buy in from local government ruling elites, to further transfer power and resources to the lower level. This study has revealed the politics and complexity of

implementing reforms. Devolution has occurred in practice and on paper but only between central government and county government. However, devolution of responsibility, skills, agency and resources has not been implemented in the lower levels of county government structures. These are all key features identified in Figure 1 as essential for operationalizing democratic decentralisation policies with consequences for implementing meaningful participation. It appears that the Nairobi County government is re-centralising certain functions such as participation which is meant to be further delegated to the Sub County administration. The re-centralisation of the participation function by the County government coupled with the exclusion of Sub County officials from participating at different levels such as the CBEFs and the County Fiscal Strategy Paper affirms observations by (Andrews et al. 2017; Devas and Grant, 2003; Khan, 2008) that in order for governance reforms to be successful there is a need to focus less on technicalities and legislation and more on reforming the institutional and societal space or context which includes attitudes of acceptance for new ideas by the ruling elites.

One could argue that decentralisation and devolving power takes time and that the centralisation of power and resources by the Executive branch of local government is temporary and part of a transition process will eventually see the complete transfer of power and resources to lower levels of local government. This argument may be true but the test of commitment to devolve power is not measurable by legislation only or physical resources but by attitude and other actions that signal support. According to Andrews (2010) there are four main stages to a reform process. First stage is 'Conceptualisation' where reform ideas and laws are formulated and formalized. The second stage entails 'Initiation' when reforms are introduced into the context/setting. The third stage is the 'Transition' when new processes, rules, regulations start to replace the old approach and the final stage is 'Institutionalisation' where reform processes, rules and formal/social norms are put into in practice and influence social norms and behaviour. The findings of this study could argue that the third and final stages of the reform process cannot be truly achieved in the absence of new attitudes, norms and behaviour. The final goal of reform should thus not be institutionalization but reformatting of the institution's norms and behaviours.

According to Andrews' (2010) study, the challenge with African public finance or governance reforms is the third and fourth stages of the reform process as African countries decentralizing often struggle to transition and institutionalize reforms. Andrews (2010: 30) argues that without

internal pressures or demands for transforming attitudes of both state and non-state actors “it is likely that reforms will continue to have only limited impacts on practice.” This study has revealed that apart from the lack of resources, capacity and skill at the lower levels is the poor attitude among local government Executives to fast track the devolution process, capacitate lower levels of the County government administration as well as the unwillingness to encourage, communicate, show support and interact with lower level officials. Lower level officials are being kept in the dark on essential and critical things pertaining to their roles and responsibilities, formulation of legislation and public policy. There is little evidence of effort on the part of the ruling Executive to establish a relationship or interact with lower level officials on the devolution process and get their input in the design of participation processes.

There is little evidence of cooperation, consultation, consensus building or negotiation between local government Executive branch, the Sub County administration and citizens. Deliberation, careful consideration, debate and discussion of reasons for and against are central features identified as making participation meaningful according to Pimbert and Wakeford’s (2001) Deliberative Inclusive Processes (DIPs).

A key demonstration of the poor attitude and absence of commitment by local government Executives is seen when Sub County administration are not consulted, involved nor aware of the existence of a Nairobi County *Public Participation Act*. This is problematic considering that Sub County administrators are feature prominently in the Act. This can be interpreted in two ways, either as a result of serious levels of bureaucratic inefficiency causing a complete breakdown in communication channels between local government Executives and Sub County administrators or as a deliberate and malicious attempt to disempower lower levels of government by keeping vital information away from them. If this is the case, instead of using the Nairobi County *Public Participation Act* to establish genuine platforms for citizen engagement, the Nairobi County Executive are using the Act for purposes of politicking.

It is argued that when local government officials are elected by local citizens and not appointed by national government, they are more likely to improve performance which lead to better services in order to be re-elected again (Ackerman, 2004; Blanchard and Shleifer, 2000). Political devolution is said to result in improved performance, government responsiveness and accountability since citizens are able to vote local government officials into power (Ribot, 2002). Administrative decentralisation or autonomy empowers “devolved local governments

to hire and fire local staff thereby making local officials accountable to the electorate and elected officials and not to central government” (Gurgur and Shah, 2000: 51). There is evidence in literature which suggests that when local government officials are directly elected by the electorate which is the local community, local governments are more likely to be more accountable, responsive and willing to engage with citizens (Bardhan and Mookherjee, 2000, 2006; Crook and Manor, 2000).

This straightforward interpretation and behavioural change in local government officials has not been the case as this study has revealed. Kenya’s decentralisation reforms include political devolution whereby citizens can vote for their governor (political head) of the County who in turn appoints members of the County Executive. Citizens can also vote for members of the County assembly. The study has shown that political devolution has not incentivised local government officials to perform and improve efficiency. In fact, it has further politicised governance matters which has impacted negatively on participation spaces. Public participation is a vehicle by which local government officials and members of the assembly are visible, gain popularity, obtain influence and votes from the populace. Study findings highlighted the pressure to be re-elected has turned public participation spaces into contested domain, where ruling elites campaign for votes and influence by controlling who facilitates public participation. County Executives are said to want to oversee and implement public participation themselves and not entrust it to lower officials who may end up growing in popularity and influence because of their visibility, proximity to the people as well as the importance of the matters they are discussing. As such there is contestation within the County Executive and between the Executive and the County assembly over whose responsibility and jurisdiction it is to facilitate public participation.

With the introduction of direct forms of public participation and the gradual phasing out of CDFs, and centralisation and management of all County funds by County government, assembly members feel that their campaign space is being encroached upon and their powers diluted. Public participation is now contested by both the County Executive and the County assembly as they jostle for power and re-election resulting in the hi-jacking of citizen forums by MCAs. This feud has in turn has fuelled the MCAs reluctance to approve sufficient funds for direct participation as well as the County Executive’s reluctance to further devolve the roles of facilitating and convening participation to Sub County officials. A key requirement for the operationalisation of democratic decentralisation policies (See Figure 1) such as support from

political and assembly leaders for direct public participation by the State with constituencies, communities and non-state actors in planning and decision making is lacking.

8.2.2 The politics of power and participation

Participatory spaces can also be paradoxical arenas providing resistance from tyranny and a path for transformation or spaces where dominant powers are entrenched and/or perpetuated. Dominant powers and spaces can be entrenched by ensuring that formal spaces of participation are clamped shut, voided of meaning, or depopulated or weakened (Brinkerhoff et al., 2007; Cornwall, 2004). The study observed that the Sub County administration officials who by law are mandated to facilitate participation lacked the knowledge, skills, information for deliberation, office structures and resources which enabled them to perform their duties and be taken seriously. Due to the lack of information, documentation and capacity and depending on the policy document the opportunity, there is no deliberation or debate of County budgets or plans. Instead citizen forums are spaces where citizens merely express their opinions or list the projects they would like government to implement. The absence of deliberations as well as the lack of power and resources at the Sub County to implement citizen input has failed to sustain interest and willingness of citizens to continue attending and participating in these forums.

The citizen participation spaces lack skills and capabilities which might have enabled both state and non-state actors to engage in meaningful discussion or deliberation in accordance with Pimbert and Wakeford's (2001) Deliberative Inclusive Processes (see Figure 2). The lack of skill weakens the potential of the invited space which is also further weakened when it is not given decision making power, and when there is a lack of feedback linking citizen input to final decisions and results. All these factors have resulted in growing mistrust, suspicion, lack of confidence and frustration by citizens who engage in wish listing and not meaningful deliberation based on available resources. The assertions made about the importance of deliberation, information, decision making power, feedback as critical for sustaining invited spaces is confirmed and supported by this study (DeRenzio and Wehner, 2015; Grant, 2002; Goetz and Gaventa, 2001; Pinket and Wakeford, 2001).

Participation is said to be a form of power which can be used for tyranny, but participation power can be transformed by making it legitimate, accessible and less domineering (Gaventa, 2004; Kesby, 2005). The study has demonstrated that this is what citizens through Residents

Associations have resorted to doing, convening their own invented participation spaces, approaches and mechanisms. There currently appears to be disconnect or lack of alignment between County government participation structures and policies and actual perceptions and expectations around the concept of participation by citizens. For Residents Associations which participated in this study, they interpret participation to mean equality, inclusiveness, influence, voice and empowerment which arise from relationships of trust, a quality that seem to be lacking in the formal spaces. Participation is modelled on trust for without trust there can be no cooperation and participation (Fukuyama, 1996; Putnam, 1993).

Residents Associations interviewed lamented the high levels of corruption in local government and demonstrated a lack of trust with anything associated with the County government administration. All Residents Associations interviewed stated that they did not have complete trust in the formal spaces created and the officials that facilitate them and thus are seeking to transform the power participation in their favour by either cooperating and helping County government officials to improve participation spaces or by using confrontational approaches to participation through litigation, protest and withholding of local taxes. Poor levels of trust within the county government between the Executive and Sub County administrators has also negatively impacted on the facilitation of public participation. From this study one can see the importance of trust and social capital as essential for participatory governance. Some Residents Associations are opting for more co-operative tactics as a way of building trust between citizens and the County government whilst other Associations do not believe that trust between the County and its citizens can be restored. They are thus resorting to more confrontational tactics to demand accountability.

The antagonistic relationship between organised groups and County governments are fuelling levels of mistrust between state and citizens which is problematic for formal participation. It would appear that legislation and reform do not automatically create or establish relationships of trust between state and citizens, it is up to the County government officials to work towards winning and earning the trust of the people through treating participation spaces with respect, transparency, ensuring inclusion and improving performance. On the other hand, findings have revealed that the County government is not only undermining participation spaces but also the Sub County administration by insufficiently capacitating Sub County officials to implement public participation effectively. This in turn further undermines any attempts to rebuild trust

between citizens and the County government or any hopes of transforming formal participation spaces.

The question therefore is why citizen participation and devolution reforms have not translated into empowered successful spaces of participation and why are previous challenges with participatory local governance emerging once more after devolution and citizen participation legislation? The success of invited spaces is contingent on ruling/governing party supporting popular participation; popular mobilisation or an active and engaged civil society or citizenry; and a sufficiently resourced, well-co-ordinated state bureaucracy (Fung and Wright, 2003; Gaventa, 2004; Heller, 2001). This study has confirmed these assertions by demonstrating how insufficient resources and poor co-ordination between Nairobi County Executive and the Sub County administration has impacted negatively on the design and implementation of citizen participation. The lack of resources and poor coordination can partially be attributed to lack of support for popular participation by ruling County government which seeks to undermine an active citizenry as a way of maintaining status quo.

Other factors are embedded in the particularities of context, these include previous local government history and experience including but not limited to poor local government performance, mismanagement and corruption despite previous unsuccessful attempts of decentralising some resources and participatory functions to the local authorities. They also include the prevailing culture of politics, and the ways in which citizens perceive and engage with decision making processes, “these factors shape expectations, relationships and dynamics ...lending different meanings and outcomes to the invited spaces” (Cornwall, 2004:3). Previous experiences of decision making at the local government level through LASDAPs were tainted by undue political interference by ward councillors, citizens had limited access information, limited opportunities for deliberation and received little feedback regarding project implementation after the decision-making process.

This study has highlighted how previous local government context and history matters. Findings have shown how MCAs as well as local government ruling elites’ old habits of capturing and dominating participatory spaces “die hard.” The local government context may have changed as far as the adoption of new institutions and legislation, but the old political habits and attitudes of local government actors have not changed along with the legislative reform. The study has also shown how perceptions (by citizens and within government) of the

previous local government administration as corrupt and looking out for their own interests and the interests of ruling elite has not changed. The new citizen participation spaces has done very little to help change perceptions but instead have perpetuated and increased negative perceptions of local government and formal participation spaces. The study highlighted the tensions within the community arising out of elite capture of participatory spaces as well as from poor local government performance, mismanagement and low levels of trust. It could be argued that the persisting and prevailing conditions emanating from local government history and context stand as an obstacle for the realisation of devolved democratic governance. If not addressed, the potential for a developmental, participatory democracy cannot be translated from decentralisation theory or legislation to a practical reality.

8.2.3 The effect of legislation on empowerment and changing behaviour

Combining devolution and public participation law does not automatically mean empowerment or that the law is happening in practice. The findings highlighted the difficulty of achieving success by legislating. Prior to devolution, public participation in public policy was minimal. Overall the citizen participation through LASDAP had minimal influence on decentralised service delivery in local authorities (Muriu, 2014). This was mostly because decision making power was extremely limited hence the introduction of devolution and participation reform. Participation has thus far emerged as a commitment in rhetoric with very little effort on the part of officials to institutionalize and act on citizen input. This was further compounded by the lack of citizen awareness and inadequate capacity to participate which hampered their input in the process (KHRC, 2010; Lubaale et al., 2007; Miriu, 2014; Syagga and Associates, 2007).

The major difference between pre and post devolution is the new legislation which compels County governments to facilitate direct public participation in public policy and County affairs. Devolution and participation legislation were deemed as a solution to address previous challenges. Although LASDAP definitely ushered a process towards greater institutionalisation of citizens voice in local decision making this study seems to suggest that previous challenges have not been solved by legislative reform as the current structures of participation are exhibiting once again challenges faced in previous participation spaces. This raises the question as to why legislation has had limited effect on influencing practice, social norms and behaviour. One reason why the institutionalization of devolution and participation legislation has not affected the behaviour of local government officials is according to Andrews (2010) that reform support, skills and resources are often concentrated at national institutions such as the budget

departments, treasury and procurement departments or audit departments. Central Executive institutions at the local government level also receive a lot of attention and support from donor agents through engagements which allow for the transfer of skills, resources, lessons and other support vital to the functioning and management of reforms. However, such engagements are seldom extended to other national government departments and rarely do they extend to other officials who work in other departments/institutions at the lower local government levels such as the Sub County level. Central entities do not always engage directly with decentralised entities at the district or municipal levels.

Andrews (2010) argues that if reform support is targeted at a central institution, there will be little success in addressing future challenges and reforming the culture of institutions at various levels. This study supports this claim which shows very limited engagement, focus, support on lower decentralised levels of governance at the Sub County and Ward level. These Sub County and Ward administrators are frontline implementers who appear to be neglected and left behind in terms of resource, information access and capacity support. Not only are Sub County and Ward administrators merely left behind but are proactively distanced by the county Executive. They appear to be left to their own devices to figure things out on their own and go at it alone. Reforming practice is a complex problem which requires multiple concrete solutions. One of the solutions put forward by Andrews (2010, 2017) is to coordinate and bridge the connection and engagement between central and decentralised institutions so as to facilitate transition and institutionalization of reforms via the transfer of skills, ideas, resources, lessons, attitudes and norms which see are likely to see impacts of reform on practice. Effective public participation requires coordinated action within government and between government and citizens.

A change in attitude, behaviour and approach cannot merely be achieved by changes in legislation alone. Legislation helps but only to a certain extent through the setting up of key institutions but legislation as this study has shown, done very little to influence the behaviour of actors as well as government responsiveness. Post-colonial theorists supported by other scholars such as Brock et al. (2001) and Andrews et al. (2017) partially explain why often reforms and legislation do not result in behavioural change or practice on the ground. These theorists argue that formal participation spaces established at the behest of donors and development agencies are less likely to translate into actual changes in behaviour, power and governance. The study has shown the limited internal organic rise of conquered spaces resulting in very little substantive change in overcoming challenges such as the dominance of

participation spaces by ruling elites as well as attitudes concerning gender and class inequalities.

Using the concept of isomorphic mimicry Andrews et al. (2017) explains the adoption of reforms and recommended practice set by global actors by developing countries is a way of achieving legitimacy and accessing financial investments. This in turn results in developing countries delivering impressive looking laws and PFM systems that resemble best practices and global agendas but function poorly in terms of implementation and producing the purported benefits and outcomes. This study has revealed the support and external involvement and by international financial institutions such as the World Bank is partially responsible for Kenya's adoption of devolution and citizen participation reforms but unfortunately suggests a case of isomorphic mimicry whereby Kenyan reforms look and sound impressive but are poorly suited, lack political will and support from ruling elite and MCAs; require resources and capacities which the context lacks. Multiple participation opportunities through MCAs, County government and other bodies such as the CBEF have proven to be very costly at the local government level. Furthermore, decision making power for resource allocation rests at the County Executive level and with the MCAs who also have interests in ensuring that formal participation is not adequately resourced. The high cost of participation coupled with the lack of administrative capacity and political will have resulted in tokenistic participatory processes and mechanisms. The quantity of participation opportunities available in legislation have thus not translated into meaningful participation meant to overcome unequal power relations.

The reforms are not adequately designed to respond to specific political, social, and organisational challenges on the ground, particularly at the local level. In the end, citizen participation spaces and devolution spaces have thus far turned out to be a huge disappointment and have not lived up to the expectations of citizens who had hoped to see a change in terms of meaningful and inclusive engagement whereby citizens (particularly vulnerable groups at the grassroots levels) exercise greater influence over public resources. The study supports the notion that global pressures for good governance through decentralisation and participatory governance reforms can be a positive and powerful force for good governance, empowerment and service delivery outcomes as purported by neo liberal literature. However, ironically global pressures and actors can also promote isomorphic mimicry of reforms and institutions which end up delivering legislation, government institutions and processes that imitate other Western institutions and legislation but without delivering performance and benefits.

8.2.4 On representation, inclusiveness and meaningful participation

A number of dynamics work to undermine the power of participation such as a lack of political commitment which is manifested by irregular attendance from public officials. Secondly, a lack of ownership of the process amongst local communities, as well as fears expressed by Sub County officials about violent confrontations emanating from involving “difficult” groups, such as poor, unemployed communities and other vocal CSOs have implications for representation (Brinkerhoff et al., 2007). The fear of violence at formal spaces of public participation is real and it does impact on representation processes as confirmed in this study, the Nairobi CBEF which has been marred by poor attendance, a lack of political commitment to the space by the County Executive as well as the exclusion of some vocal organised groups not only in CBEFs but from other formal participation spaces at the County and Sub County level.

Representation is also problematized in literature when it comes to the selection process; who speaks for whom, and how claims are to be represented, made and negotiated to ensure inclusiveness. Representatives are often in positions of power and thus representation is politically contested and representatives’ processes are captured by those that seek to influence decisions to further particular interests (Fotel et al., 2008; Lavalley et al., 2005; Ribot, 2007). There is thus a need to pay close attention as well as closely manage and monitor representative processes to safeguard against domination and elite capture which this study has revealed the Nairobi County government has failed to do. The lack of guidance, monitoring and accountability for when and how to use representatives and manage the representation process has resulted in ad hoc implementation in the selection and use of representatives which has in turn negatively impacted on participation processes. Participation spaces are thus vulnerable and exposed to elite capture through ‘representatives’ as some MCAs select which members of the community participate in representative structures set up by junior County officials at the Sub County and Ward level.

Whilst other structures are using MCAs to manage the representation process, some Sub County officials are themselves involved in the selection of representatives and set up of representative structures which also risks being open to abuse by local government officials. The lack of guidelines for the use of representatives other than in the CBEF structures means additional representative structures set up by junior officials at the Sub County and Ward level are problematic as they all use different procedures and play different roles regarding how

representatives make input on behalf of the community with no accountability. Representation without accountability has implications for democratic governance in the sense that representatives will less likely act in the best interests of those they represent]. The representation process is further delegitimised by the lack of resources by representatives to consult widely which brings into question how representative the views put forward are or whether representatives represent the opinions and the thoughts of the few. The conflict of interest arising from payments for representatives of the CBEFs from the County Governor further delegitimizes the space as well as opens itself up to elite capture by County Executive.

Barnes et al. (2001) considers the tension created by different ‘opportunity structures for participation’: one that is open to the general public and another that finds representatives from existing groups and organisations. They argue that these two different approaches are complex and could possibly lead to tensions arising from questions about the nature of representation and legitimacy. The representation process is further complicated by Nairobi County government using different representation structures the first being the CBEF structure that is legislated, regulated and monitored by a national independent body the CRA and the ad hoc unregulated, unlegislated and unmonitored ‘opportunity structures’ utilized by junior County government officials at the Sub County and ward levels. This has in turn created tension and questions surrounding the use and legitimacy of representatives by Sub County administrators.

The study has further revealed that although CBEFs are legislated and regulated, it is not sufficient for inclusive and effective representation. The lack of buy in by local government officials as well as the lack of resources, capacity amongst CSOs and access to information undermine representative spaces. In order for representative spaces to be effective, it needs to be accompanied by legally binding guidelines as well as equal access to information and decision-making power, political commitment, resources and capacity. Currently Nairobi County government’s non-state representatives lack the resource capacity and skill to be effective in those spaces.

This study has also highlighted the impact of class inequalities on inclusive and meaningful participation. Jessop (2008) argues that the flow of money, status and power furthers both public and private interests. He also argues that State policy is another form or way in which social power organises and expresses itself. State policy is thus a reflection of a range of views

which arise or are influenced by power relations within institutional and social contexts. The study has revealed how Nairobi's unequal economic power relations influences state policy and how differently wealthy and poor citizens are engaged when it comes to public policy. Citizens and businesses use their economic status to regain influence and power over participation spaces and public policy in favour of their interests. By paying for participation venues, wealthier citizens are able to determine where, when and how they are engaged.

Furthermore because of the 'economic investment' that they put into the local government economy, there appears to be a bias or preference to please and accommodate input from businesses who will in turn reward the County government with financial investment. On the other hand, the poor are disempowered and are unable to dictate or control how and when they are engaged. The attitude of local government officials towards participation of poor people is looked down upon as there is no economic benefit for local government officials. The only benefit of engaging poor areas lies in obtaining votes for MCA's who consider public participation in disadvantaged areas as political capital or a boost in popularity. Similar to Porter and Olaa's (2001) research, this study also found that it was easier for local government officials and policy makers to access more visible and more vocal community elites than engage with the communities' poorest.

One of the key requirements for meaningful participation to occur is that participation must be a discussion and presentation of positions and perspectives based on information and evidence (Pimbert and Wakeford, 2001). Formal participation spaces have shown very little evidence of meaningful engagement. The standard or definition for meaningful participation, consultation or involvement in public policy is when citizens deliberate, debate and influence the allocation of public resources. Due to the lack of information, documentation and capacity, there is no deliberation or debate of County budgets or plans. Instead citizen forums are spaces where citizens merely express their opinions or list the projects they would like government to implement. This study reaffirms the need for decision making power, access to information and user-friendly public policy documents as well as capacitated local government officials to ensure meaningful and sustainable participation spaces.

Participatory approaches are not a panacea and their benefits are too often romanticized. Institutionalized participation or spaces can be used to impose and sustain and not overcome, power relations as some may think (Fung and Wright, 2003; Renzio and Wehmer, 2015). Local communities are romanticised as peaceful and socially homogeneous and yet there are intra

community divisions and power struggles along class, gender and ethnic lines which all come into play during participation meetings and issues of voice and representation. The study highlighted not only the impact of class but also gender on inclusive participation.

With the majority of County officials' cultural attitudes affect their behaviour and attitudes of engaging women in these spaces. Most of the male officials feel that because a large number of women attend public participation meetings there is no need to come up with different or additional mechanisms and methods that exclusively target women as the County officials feel and believe that too much focus on the women empowerment agenda has side lined and "endangered" the men. There appears to be a lack of understanding from the County officials that gender inclusiveness in participation spaces is not about the number of women who attend but it's about the quality and impact of engagement. It is about whether women's input is taken seriously, planned and budgeted. Current attitudes and responses to resourcing women's needs and priorities were viewed negatively by County officials as a battle between men and women for limited resources. If women inputs are to be truly prioritized and resourced, such an approach and attitude risks making the attendance of women a tick box exercise.

8.3 Some directions for future research

During the course of this research, a number of issues needing further investigation were highlighted. The roles played by civil society organisations and Residents Association in terms of representing local communities in participation spaces require attention particularly the actually processes in which they consultate, collate and present the various views and interests which exist within these groups. Who these organisations really represent also merits some analysis. Secondly, while this study provided some insights in terms of the impact of gender and class on participation spaces, the influence of these and other social factors such as ethnicity, religion, age on participation spaces and policy engagement outcomes need to be studied. This study can only be understood as merely scratching the surface regarding these key aspects.

Lastly, future research could investigate best practices and innovative mechanisms for improving citizen participation. The use of public hearings as participatory method is heavily relied upon by most governments which have shown over the years serious limitations in terms of access, meaningfulness and inclusiveness. In the age of social media and technology,

alternative ways of engaging citizens which addresses long standing issues of formal participation spaces and methods should also be welcomed.

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Annexure A: Table of Sub County Demographics of Nairobi City County

	Sub county	Area Sq.Km	Populatio n	Total no of wards	No of wards with ruling party reps	No of wards with opposition party reps	Descriptio n of income levels
1	Westlands	72.4	176 689	5	1	4	Located on the north west of the county. Contains some high income suburb areas such as Runda, LakeView, as well as slum areas like Kangemi, Githogoro, it also contains some middle income areas and wards with the highest Gini co-efficient levels in the county (0.36 - 0.47);
2	Dagoretti North	29.0	181 365	5	1	4	Dagoretti North and South are located at the west of Nairobi county. It is a mostly middle class population working in nearby hospitals schools & governmen
3	Dagoretti South	25.3	178 691	5	4	1	

							t institutions
4	Langata	196.8	176 314	5	0	5	Langata is located to the south-east of Nairobi, contains Kenya's largest slum – Kibera plus some of the most affluent suburbs of Karen and the mainly middle class Langata suburb are part of the Sub County.
5	Kibra	12.1	178 284	5	1	4	Located in the south west of Nairobi, mostly a low income area which includes Kenya's largest slum - Kibera and one high income ward adjoining some of Langata's wealthy estates
6	Roysambu	48.8	202 280	5	5	0	located approximately 12 kilometres from the city central business district. Roysambu is home to many middle class income

							earners and commercial enterprises
7	Kasarani	152.6	200 984	5	5	0	located to the Eastern side of Nairobi; County has emerging middle class suburbs and is home to many (8) informal settlements & businesses it (contains wards with the highest Gini coefficient levels in the county (0.36 - 0.47))
8	Ruaraka	7.2	192 620	5	0	5	Located north of Nairobi, it is One of the most densely populated Sub Counties with an estimated 20 000 people per square kilometre
9	Embakasi South	12.0	201 042	5	2	3	Located at the East of Nairobi, Embakasi is home to mostly upper and middle
10	Embakasi North	5.5	181 388	5	3	2	
11	Embakasi Central	14.3	185 948	5	4	1	
12	Embakasi East	64.7	163 853	5	1	4	

13	Embakasi West	9.4	187 020	4	3	1	class households with. It is also home of informal settlements and one of the most densely populated Sub Counties in Embakasi North. Embakasi contains wards with the highest Gini coefficient levels in the county of 0.36 - 0.47
14	Makadara	13.0	160 434	4	1	3	located in the Eastern side of Nairobi and is the oldest African residential area, home to informal settlements such as Mukuru and Mariguini. contains wards with the highest Gini coefficient levels in the county. Has a 30% poverty rate above the county poverty rate.

15	Kamukunji	12.0	201 783	5	3	2	Located at the centre of the county, it is predominately a middle class area. Residential areas mostly dominated by Somali immigrant. Residential areas are limited & it is mostly a business centre. It also has Pumwani the oldest low-income settlement in Nairobi, dating as far back as 1919.
16	Starehe	20.0	328 764	6	3	3	Located in the central and southern part of the county and also home to several informal settlements . It is also home to various large and small scale businesses and government offices
17	Mathare	3.0	200 984	6	4	2	Located North of Nairobi, it is One of the most densely populated Sub Counties with an

							estimated 20 000 people per square kilometre. The sub county is home to low income households and Nairobi's oldest slums
Total		698.1	3 298 443	85	41	44	Nairobi has an overall poverty rate of 22%

Annexure B: List of interviews

No	Name of Organization/Institution	Area of work	Person interviewed	Date of interview
Civil Society Organizations				
1.	Institute for Economic Affairs	Research & Advocacy	Programme Officer	April 2016
2.	International Budget Partnership	Research & Advocacy	Country Office Manager	April 2016
3.	Institute for Legislative Affairs	Drafting of Legislation & Policy	Former CEO	April 2016
4.	National Tax Payers Association	Research & Advocacy	Programme Officer	April 2016
5.	The Institute for Social Accountability	Research & Advocacy	CBEF CSO representative/ Program Officer	April 2016
Residents Associations				
6.	Dandora Transformation League	Community development & urban governance	Executive Committee	August 2016
7.	Karen Langata District Association	Community development & urban governance	Secretary	August 2016
8.	Kenya Alliance Residents Association	Community development & urban governance	Program Officer	August 2016
9.	Kilimani Project Foundation	Community development & urban governance	Secretary	August 2016
10.	Old Race Course Estate Residents Group	Community development & urban governance	Secretary	August 2016
Academic Institution				
11.	Institute for Development Studies	Research on democracy and urban governance	Professor Mitullah	April 2016
Independent Constitutionally Established Institution				
12.	Commission for Revenue Authority	Revenue Allocation & Capacity building	Commissioner	April 2016
Religious Institution				
13.	Supreme Council of Muslims (Nairobi Office)	Spiritual & community development	CBEF Muslim Representative	August 2016
Nairobi County Government				
14.	Chief Sub County Office	Liaise and support sub county administration	Chief Sub County Administrator	August 2016
15.	Westlands Sub County	Management of sub county affairs & facilitation of public participation	Sub County Administrator	August 2016

16.	Langata Sub County	Management of sub county affairs & facilitation of public participation	Sub County Administrator	August 2016
17.	Embakasi North Sub County	Management of sub county affairs & facilitation of public participation	Sub County Administrator	August 2016
18.	Embakasi Central Sub County	Management of sub county affairs & facilitation of public participation	Sub County Administrator	August 2016
19.	Kibra Sub County	Management of sub county affairs & facilitation of public participation	Sub County Administrator	August 2016
20.	Starehe Sub county	Management of sub county affairs & facilitation of public participation	Sub County Administrator	August 2016
21.	Kasarani Sub County	Management of sub county affairs & facilitation of public participation	Ward Administrator	August 2016
22.	Mathare Sub County	Management of sub county affairs & facilitation of public participation	Ward Administrator	August 2016
23.	Roysambu Sub County	Management of sub county affairs & facilitation of public participation	Sub County Administrator	August 2016
24.	Makadara Sub County	Management of sub county affairs & facilitation of public participation	Sub county administrator	August 2016
25.	Kamukunji Sub County	Management of sub county affairs & facilitation of public participation	Sub County Administrator	August 2016
International Organizations				
26.	World Bank's Kenya Accountable Devolution Programme;	Development; Funding & Capacity building	Social Development Specialist	April 2016

Annexure B1: List of Pseudonyms allocated to sub county and ward administrator interviewees

No	Title	Pseudonym	Sex	Age
Nairobi County Government assigned pseudonyms				
1.	Sub County Administrator	Keith	M	35
2.	Sub County Administrator	Colin	M	37
3.	Sub County Administrator	Martin	M	38
4.	Sub County Administrator	Tom	M	33
5.	Sub County Administrator	Kwame	M	42
6.	Sub County Administrator	Herbet	M	34
7.	Sub County Administrator	Shelly	F	32
8.	Sub County Administrator	Martha	F	33
9.	Sub County Administrator	Paul	M	36
10.	Ward Administrator	William	M	35
11.	Ward Administrator	Jonathan	M	38
12.	Chief Administrator	Not assigned	M	40

Annexure B2: List of pilot interviews conducted between 3 -28 April 2016

No	Title	Organisation	Area of work	Date interviewed
Nairobi Pilot interviews				
1.	Country Manager	International Budget Partnership (IBP)	Research and Advocacy	April 2016
2.	Program Officer	Kenya Alliance of Residents Associations (KARA)	Community development & urban governance	April 2016
3.	Former CEO (now consultant for ILA)	International Institute of Legislative Affairs (ILA Kenya)	Legislation and Policy	April 2016
4.	Budget Accountability and Oversight Officer & member of Nairobi County CBEF	The Institute for Social Accountability (TISA)	Research and Advocacy	April 2016
5.	Project Officer for Community Health	National Tax Payers Association (NTA)	Research and Advocacy	April 2016
6.	Social Development Consultant & Public Participation Researcher for the Nairobi County Assembly	Bridge Africa consultants	Research and Consultancy	April 2016
7.	Commissioner	Commissioner of Revenue Authority (CRA)	Constitutionally Established Independent Institution	April 2016
8.	Chief Sub county administrator	Nairobi City County Government	Manage and support the Nairobi sub county administration	April 2016
Machakos County interviews				
9.	Regional Programme Manager	National Council of Churches Kenya (NCKK) Lower Eastern Region	Member of the civil society chapter in Machakos county	April 2016
10.	Field Officer	National Council of Churches Kenya (NCKK) Lower Eastern Region	Member of the civil society chapter in Machakos county	April 2016
11.	Programme Officer	NEEMA Charity Foundation	Member of the civil society chapter in Machakos county	April 2016

12.	Programme Officer	Poverty Economic Network (PEN)	Secretary of the Machakos CSO Chapter	April 2016
Mombasa County interviews				
13.	National Program Officer	National Tax Payers Association	Research and Advocacy	April 2016
14.	Deputy Program Officer	Transparency International, Advisory and Legal Advisory Center	Research and Advocacy	April 2016
15.	Programme Co-ordinator	Local Empowerment for Good Governance (LENGGO)	Research and Advocacy	April 2016
16.	Coast Region Co-ordinator	Kenya Alliance Residents Association (KARA).	Community development & urban governance	April 2016

Annexure C: Questionnaire on Citizen Forums for Sub County and Ward administrators

UNIVERSITY OF CAPE TOWN



Department of Political Studies

Room 5.33, Leslie Social Science Building, Upper Campus, Rondebosch

Private Bag, Rondebosch, 7701

Telephone : +27 (021) 650-3916

Questionnaire on Budgeting and Planning Public Forums in Nairobi County

Please answer all the questions in the space provided or tick where appropriate.

Please note: Participation in this research is completely voluntary. Your responses are confidential and anonymous and there will be no payment for participating.

Section 1 –Introduction

Job Title:
..

How long have you employed in this position?

Please describe your main responsibilities as a Sub County/ward administrator in implementing citizen forums in your Sub County/ward

.....
.....

.....
.....

.....
.....

.....
.....

1. What is your gender?

☐

Male

☐

Female

☐

None specified

2. In which age group do you belong?

☐

18 – 30
years

☐

31 – 45
years

☐

46 – 60
years

☐

Over 60
years

Section 2 – Organization of citizen forums

3. Please kindly provide more detail regarding how the Citizen Forum on the 2017/18 County Budget Estimates was organized in your Sub County/ward for each of the following activities:

Activity	Response
How the forum were advertised	
How the forums were organised and managed (here please explain how dates & venues are selected)	
Availability of relevant documentation (which documents if any do you distribute prior to/at the forums)	
The information presented in the meeting (please briefly explain the agenda/programme for the forums – (you can attach a copy of an agenda/programme)	
How the issues were discussed/deliberated (when and how are citizens given an opportunity to make input	
Your level of participation/facilitation in the meeting (explain who	

chairs the forums & presents at the forums)	
Capturing citizen input (how is attendance recorded and actual citizens input recorded)	

4. How easy/difficult would you say it was for you organize and manage this public forum?

☐

Very easy

☐

Easy

☐

Difficult

☐

Very Difficult

☐

Don't know

Please provide reasons for your answer

.....

.....

5. Please provide an estimated number of people who attended the Citizen Forum on the 2017/19 County Budget Estimates in your Sub County/ward?

☐

Less than 50

☐

51-100

☐

101-300

☐

300-500

☐

501-800

☐

801-1000

☐

More than 1000

6. Which other citizen forums/meetings were held in your Sub County/ward? (tick all that apply) and please provide an estimated number of people who attended the forums in your Sub County/ward?

Type of meeting	Held in Sub County/ward	Approximate no of people who attended
County Annual Integrated Development Plan (CIDP)		
County Finance Bill		

County Budget Review Outlook Paper (CBRoP)		
County Fiscal Strategy Paper (CFSP)		
Other (Specify)		

7. Were the following documents produced by Nairobi County disseminated prior to or at citizen forums? (tick all that apply)

	Yes	No
County Integrated Development Plan		
County Budget Review Outlook Paper		
County Budget Estimates		
County Fiscal Bill		
Draft County Public Participation Bill		
Annual Report		
Auditor-General's Report		

8. If you do not provide a copy of above documents at citizen forums please explain why? (Tick all that apply)

- ☐ I don't know what they are
 ☐ Could not afford to print/distribute
 ☐ I could never get copies
- ☐ Residents are not interested in reading them
- ☐ Other
 Please specify:

9. When there are problems with public services in your area, how much do you think citizen forums can do to improve the situation?

- ☐ Nothing
 ☐ A small amount
 ☐ Some
- ☐ A great deal
 ☐ I don't know

Please provide reasons for your answer.
.....
.....

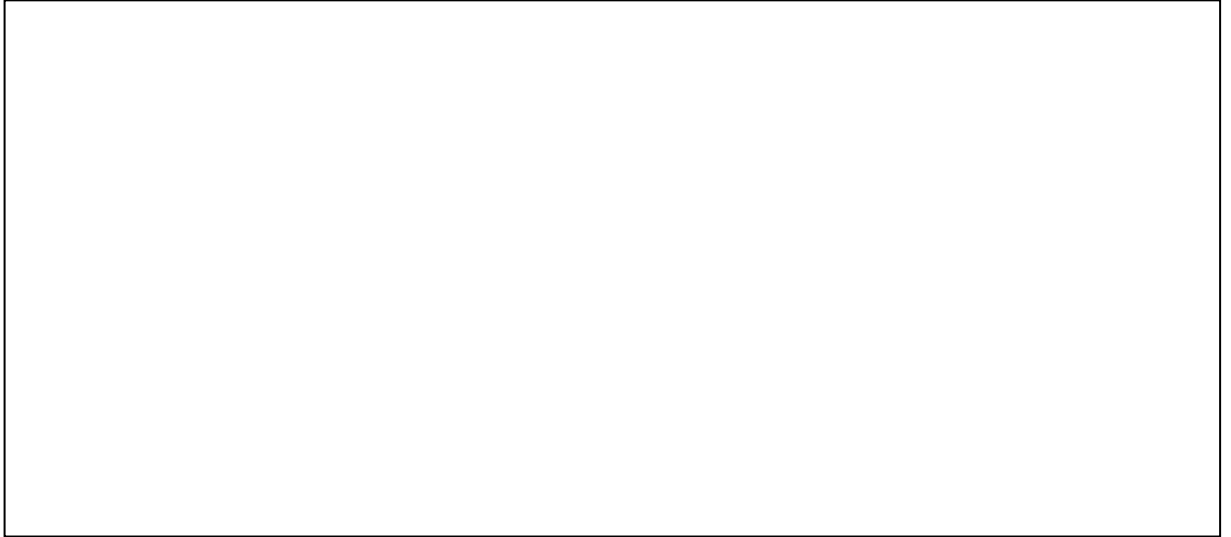
10. Are citizens allowed sufficient opportunity to express their views in this public forum?

☐ Yes ☐ No

If No, please state why.
...
.....
.....

11. Please explain how you collate the inputs made by citizens and how you provide feedback after forums have taken place?

12. What improvements if any would you make to the citizen forums ?



13. Any other comments about citizen forums?



The questionnaire is now complete. Thank you for your time!

Annexure D: A list of documents analysed for purposes of answering study's questions

Title	Type	Year of publication & Source	Purpose of data collection & analysis
Constitution of Kenya	Legal instrument	2010 – National Council for Law Reporting	Sets out the fundamental principles of governance, including devolution and the roles & responsibilities of county governments and public participation in national and county affairs.
Public Finance Management Act	Legal instrument	2012 - National Council for Law Reporting	Outlines regulations pertaining to financial management in the national and county governments; to provide for the responsibilities of persons entrusted with financial management in those governments including the roles and responsibilities of facilitating public participation in national and local budgets, plans and policies.
County Government Act	Legal instrument	2012 - National Council for Law Reporting	Sets out fundamental principles to provide for county governments' powers, functions and responsibilities to deliver services and for connected purposes such as public participation in county affairs
Nairobi City County Draft Public Participation Bill	Legal instrument	2014 – Nairobi City County Gazette	A bill for an Act of the County Assembly of Nairobi County to provide a draft framework for the exercise of citizens' right to public participation in county affairs
Nairobi City County Public Participation Act	Legal instrument	2016 - Nairobi City County Gazette	An Act of the County Assembly of Nairobi County which provides a final and approved framework for the exercise of citizens' right to public participation in county affairs
Nairobi City County Community and Neighbourhood Associations Engagement Bill	Legal instrument	2015 - Nairobi City County Gazette	A Bill for an ACT to give statutory recognition to community and neighbourhood initiatives in complementing County

			Government service delivery; to enable structured co-operation between the County Government, residents and businesses, and to generally regulate and facilitate the activities of the associations and to give further effect to Article 10 of the Constitution as regards the principle of participation of the people and for connected purposes
Nairobi City County Community and Neighbourhood Associations Engagement Act	Legal instrument	2016 - Nairobi City County Gazette	AN ACT of the Nairobi City County Assembly to give statutory recognition to community and neighborhood initiatives in complementing County Government service delivery; to enable structured co-operation between the County Government, residents and businesses, and to generally regulate and facilitate the activities of the associations and to give further effect to Article 10 of the Constitution as regards the principle of participation of the people and for connected purposes
Guidelines for formation and function of CBEF	Guidelines	2016 – Commission for Revenue Authority (CRA)	Guidelines produced to provide county governments, citizens and other stakeholder’s basic information on public participation during the budget process according to the Public Finance Management Act 2012. To provide guidelines for operationalization of County Budget Economic Forums (CBEFs).
Nairobi County Budget Review Outlook Paper	Policy document	2015; 2016 & 2017 – Nairobi City County Website	Contains Economic & financial forecasts; identification of broad policy priorities; budget

			estimates to fund priorities which county governments should formulate after facilitating public participation
Nairobi County Fiscal Strategy Paper	Policy document	2015; 2016 & 2017 – Nairobi City County website	Contains broad strategic priorities and policies; outlook on expenditures, revenues and borrowing which county governments should formulate after facilitating public participation
Nairobi County Budget Estimates	Policy document	2015; 2016 & 2017 – Nairobi City County website	Contains proposed/anticipated county government revenues and expenditure according to sector and programmes for a single financial year which county governments should facilitate public participation on the estimates
Report on the Capacity Building Consultancy for the Nairobi City County Assembly Select Committee on Budget and Appropriations, County Executive Chief Officers, Directors, Sub County and Ward Administrators	Capacity Building Workshop Report	2016 – Calla Consulting Research Services	The official report which summarises the presentations and discussions of all 205 participants on public participation in Nairobi county budgeting and planning processes
High Court Judgement on Robert N. Gakuru & Others Vs Kiambu County Government	Legal instrument	2014 – www.kenyalaw.org	Judgement which nullifies Kiambu County 2013 Finance Act due to lack of public participation. The judgement outlines and provides a threshold for public participation as required by the Constitution.
2015 Submission on the Nairobi City County Public Participation Bill	CSO submission to Nairobi County Assembly	2015 - The Institute for Social Accountability (TISA)	Submission by TISA to the Nairobi County Assembly containing proposals for strengthening gaps and weaknesses in the County Public Participation Bill
JIHUSISHE: Lessons in participation in the County Budget	CSO	2015 - The Institute for Social Accountability (TISA)	A document containing lessons and experiences from a TISA program

			designed to strengthen and help operationalize public participation in 5 Counties – Baringo, Kitui, Marsabit, Nairobi and Turkana
Handbook on County Planning, County Budgeting and Social Accountability	CSO publication	2015 – Institute for Economic Affairs (IEA)	A handbook produced for citizens and county officials to provide an easy read on provisions and measures pertaining to public finance in devolved governance, budgeting and planning at county level.
Kenya: A Citizens Handbook on Key Principles of Devolution	Residents Association publication	2015 - Kenya Alliance Residents Association (KARA)	A citizen handbook designed to provide relevant information on the roles and responsibilities of county governments and citizens under a devolved governance system
County Budget Economic Forums (CBEFs) and Public Participation in Kenya: A synthesis of case studies from five Counties.	CSO publication	2014 -International Budget Partnership (IBP)	Applied research synthesising case studies from five Counties on the operationalization of CBEFs
Principles of Participation Pamphlet	Residents Association pamphlet publication	2015 – Dandora Transformation League (DTL)	A pamphlet summarizing DTL’s philosophy and understanding of the concept of public participation
Karen Langata District Association (KLDA) Brochure	Residents Association publication	2016 - KLDA website	An informative paper document containing information on the Association’s vision, mission, activities and structures
Old Race Course Estates (ORCE) Residents Group Minutes of Meetings	Residents Association publication	2016 - Old Race Course Estates (ORCE) Facebook posts	Meetings with members pertaining to activities and structures of the Association
Kenyan Senators Boycott Devolution Meeting	Newspaper articles;	2016 – Daily Nation; The Star; The Standard; All Africa online & social media websites	Media coverage on the conflict between the Legislative and Executive branches on the roles and responsibilities of devolution governance

Annexure E: Participant Consent Form



UNIVERSITY OF CAPE TOWN
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Cape Town · South Africa

Telephone: +27 21 650 3381

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Email: hum-politics@uct.ac.za

**University of Cape Town
Faculty of Humanities
Sample Consent Form**

Title of research project:

Budget And Policy Planning In Devolved Kenya: A Case Study Of Citizen Participation In Nairobi County.

Names of principal researchers:

Yeukai C Mukorombindo

Department/research group address:

Department of Political Studies and Public Administration

Telephone:

+27 84 598 8078

Email:

yeukaimukorombindo@gmail.com

Name of participant:

Nature of research:

Doctoral study

Participant's involvement

What's involved: One on one/unstructured interview

Risks: Links to sensitive Information provided in the interview can be linked back to the participant but the option to be anonymous is available to the participant. There are no other known risks associated with this study

Benefits: To contribute to research and learning around decentralisation, citizen participation in budgeting, planning and local government processes.

Costs: There are no known costs associated with this study. Please note there is no payment for participation.

- I agree to participate in this research project
- I have read this consent form and the information it contains and had the opportunity to ask questions about them
- I agree to my responses being used for education and research on condition my privacy is respected subject to the following:
- I understand that my personal details may be included in the research/will be used in aggregate form only, so that I will not personally identifiable (delete as applicable)
- I understand that I am under no obligation to take part in this project
- I understand that I have the right to withdraw from this project at any stage

- I understand that this research might be published in a research journal or book. In the case of dissertation research, the document will be available to readers in a university library in printed form, and possibly in electronic form as well.
- As a participant, I acknowledge that I have the right to confidentiality and anonymity and I wish / do not wish to be anonymous (cancel the option which does not apply)

Signature of participant

Name of participant.....

Date:

Annexure E1: Interview Schedule

UNIVERSITY OF CAPE TOWN



Department of Political Studies

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Telephone : +27 (021) 650-3916

Fax : +27 (021) 689-7574

E-mail : politics@uct.ac.za

Interview Schedule 1: Nairobi County Public Officials; Sub County/ Ward Administrators

Introduction

Which Department do you currently work in, and what is your current job title/position in the County Government?

Department:

Branch(Area):

Job Title... ..

Please describe your main job responsibilities, particularly in relation to public participation.

.....
...

.....
...

.....
...

.....
...

On participation and devolution

What would you say are the main changes/major differences between public participation in local budgets and plans pre and post devolution?

Devolution also included the introduction of new legal requirements for public participation in decision making, and particularly budgeting at both national and county levels. What are some of the

challenges (specific to this county) you have faced in the past and/or currently facing when implementing public participation in county budgets and plans.

In addition to the CGA and PFM Act, county governments are introducing county specific public participation laws. Your county is in the process of introducing additional public participation laws such as the Nairobi County Public Participation bill, do you think the bill is supplementing the CGA and PFM Act?

Are there differences in how public participation laws are implemented at the Sub County and ward level in Nairobi country? If so, what accounts for these differences? And do you think the Nairobi County Public Participation Act takes account of these differences?

The CGA and PFM Act obligate county governments to engage the public in when budgeting and planning for county. Has there been additional capacity, either in financial, technical or human resources terms allocated to enable the county government to implement the public participation provisions?

Mobilization

When & how are public participation meetings communicated to the general populace, as well as, within and other levels of government (county, sub county and ward & village levels)?

What methods do you use to communicate and pass on information about public participation meetings in your area? Why do you opt to use these methods and have these been methods effective? Why or why not do you think?

What is the county's policy regarding when and how the public should be notified about public participation meetings?

In your opinion, are you satisfied with the level of attendance at public participation meetings? Based on your interactions with citizens what are the reasons they give for attending/not attending?

Implementation

Where do you usually hold public participation meetings in your area? Do you conduct just one big meeting or several small public participation meetings on county budgets and plans in your sub county/ward?

How is the agenda for the meetings set? Please can you walk me through the procedures/agenda of a public participation meeting on the county budget and/or plan as an example.

How are public policy documents shared with residents? Are policy documents (county budget or county plan) made available prior to the meeting or at the meeting or after the meeting?

In which language are the policy documents? And which language is mainly used at public participation meetings?

How do citizens contribute their views at public participation meetings?

On average how long is a public participation meeting around county budgeting or planning?

Are there mechanisms/methods you use to prevent a certain person or group from dominating the meetings. How do you ensure that everyone has equal opportunity to be heard and to make input.

Do you work with other stakeholders to implement public participation? Why or why not? If so who are your partners and what role do they play in implementing public participation?

Do you have any additional or general comments you would like to make about the implementation of public participation in the county or in your area?

Interview Schedule 2: Civil Society Organisations/ Residents Associations

Which organization do you work in, and what is your current job title/position in the organization?

Branch(Area):.....
 ..

Job Title.....

.....

• •

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• •

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• •

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• •

What would you say are the main changes/major differences between public participation in local budgets and plans pre and post devolution?

It also included the introduction of new legal requirements for public participation in decision making, and particularly budgeting at both national and county levels. What would you say are the key concerns and key gaps regarding the participation laws?

How does the county participation legislation support/clarify current participation avenues?

Do you think there are differences in which participation is conducted/facilitated by various Counties and what do you think are the differences in which this county rolls out participation and what do you think accounts for these differences?

CBEFs

Has the county established a CBEF? and in your opinion has it been difficult establishing one in this county?

How big is the CBEF and is there an equal representation of both state and non-state members?

Is there political support and public support of CBEFs?

How long has the CBEF been operational/functional?

Non-state members of CBEFs are meant to represent organized interest groups in the county, such as women, business, professionals, labour, and persons with disability. The County Government Act prescribes an open process of nomination that allows all organized groups in the county to nominate candidates which are selected by the governor. Were non-state members selected by way of nomination? Did organized groups in the county put forward nominations and did you participate in this process? Why or why not?

There have been questions regarding representativeness of the CBEFs. Is there a non-state CBEF representative for each group listed in the PFM Act?

Does the composition of CBEF reflect the minimum requirements of the law? Are organized groups satisfied with the representatives selected?

CBEFs are meant to facilitate public participation for budget estimates, County Fiscal Strategy Paper, County Budget Review Paper and county plans such as annual development plans. Has CBEFs facilitated participation in these? Have these participation meetings been well advertised and attended?

Have you attended any CBEF consultation meetings? Why/why not? If yes, what is your impression of them? Please describe your experience.

One of the core responsibilities of non-state CBEF members, implicit in Kenya's Public Finance Management Act, 2012 (PFM Act), is to represent and consult with their constituencies – are CBEF members consulting with constituencies and public in general? How often?

Are CBEF members working with CSOs to elicit citizen input? What is the level of collaboration between CSOs and CBEFs?

Does the CBEF provide documents prior to or at public meetings? Do CBEFs provide feedback to citizens regarding how their input was collected and utilized?

County Government participation forums

In addition to CBEFs at the county level, county government conducts public participation forums at the sub county and ward level through the County Planning Units and Ward administrators. Since the introduction of devolution and participation laws, have you noticed any effect on participation in local government budgets and plans?

How frequent are these participation forums throughout Kenya's budget calendar?
Is there participation/budget circular calendar publicized?

How well advertised and attended are these forums? How are these forums advertised?
How well planned and managed are these forums? What are some of the benefits and problems of such forums?

What are the similarities and differences between CBEF and ward participation meetings?

How long is each public meetings and what is the length of time in which county officials roll out public participation forums throughout the county?

How do citizens attending make input? How much time is awarded for actual input and for explanations by county officials.

How accessible and available are policy documents are to the public? (Prior to and at the meetings)

Are ward administrators working with CSOs working in budgets and public participation to elicit citizen input? What is the level of collaboration between CSOs and Ward administrators?

Which other CSOs/RAs are active in mobilizing citizen input and encouraging public participation in county affairs in the county?

How do you elicit constituents/citizen input from your members and provide input into County participation processes?

Interview Schedule 3: Academic Institutions & Donors

Introduction

Which organization do you work in, and what is your current job title/position in the organization?

Organization:

Branch(Area):

Job Title... ..

Please describe your main job responsibilities, particularly in relation to public participation.

.....

.....

.....

.....

On devolution and public participation

What do you think were the main reasons why Kenya's 2010 Constitution introduced a new structure of government that put citizen participation at the core?

Why is devolution considered essential to effective public participation?

What would you say are the main changes/major differences between public participation in local budgets and plans pre and post devolution?

Kenya's ambitious devolution process has ushered in 47 Counties. What are some of the challenges facing newly devolved Counties and how are they impacting on public participation? Specifically challenges they did not foresee during the formulation of these reforms.

What are some of the challenges and successes faced by County governments in implementing public participation regulations under newly devolved systems and institutions?

The Constitution, County Government Act and PFM Act introduced new legal requirements for public participation in decision making, and particularly budgeting at both national and county levels. What would you say are the key concerns and key gaps regarding the participation laws?

In addition to the CGA and PFM Act, county governments are introducing county specific public participation laws. To what extent there are differences in how county governments implement public participation and what accounts for these differences? (particularly between urban and rural Counties)

Is there support for new public participation structures from public officials and county assembly members?

Is there enough social capital or levels of trust to illicit both political and public support for participation structures?

The PFM Act has created a new participation body called the County Budget Economic Forum. It is a body consisting of state and non-state members who represent various organized interest groups in the county, such as women, business, professionals, labour, and persons with disability and make input in local budgets and economic planning. The County Government Act prescribes an open process of nomination that allows all organized groups in the county to nominate candidates which are selected by the governor. How representative and balanced do you think such a body could be?

Is there sufficient capacity and support within government and outside government to effectively engage in budgeting and economic planning.

How accessible are policy documents to citizens? What makes policy documents accessible to ordinary citizens?

Have you attended any public consultation meetings? If yes, what is your impression of them? Please describe your experience.

Is your institution currently providing any capacity building or any other form of assistance to Nairobi County Government in relation to public participation? If so, please state what assistance you are giving and why you are giving it.

Interview Schedule 4: CBEF (non-state) members

Introduction

Which organization do you currently work in, and what is your current job title/position in the organization?

Name of Organization:

Job Title.....

How long have you been a member of the Nairobi County CBEF?
.....

Roles and responsibilities

Please describe your main responsibilities as a member of the CBEF particularly in relation to public participation.

.....
...

.....
...

.....
...

.....
...

Please explain how it is that you became a member of the CBEF, what processes did you undertake in order to become a member of the forum?

Are you compensated by the Nairobi County Government for your involvement in the forum? If so can you state how much you are compensated and if there are any conditions attached to spending or receiving the compensation?

One of the core responsibilities of non-state CBEF members, implicit in Kenya's Public Finance Management Act, 2012 (PFM Act), is to represent and consult with their constituencies – are CBEF members consulting with constituencies and public in general? How often?

Are CBEF members working with CSOs to elicit citizen input? What is the level of collaboration between CSOs and CBEFs?

CBEF structure and function

How big is the CBEF and is there an equal representation of both state and non-state members?

Is there political support and public support of CBEFs?

How long has the CBEF been operational/functional? And how long have you been a member?

Non-state members of CBEFs are meant to represent organized interest groups in the county, such as women, business, professionals, labour, and persons with disability. The County Government Act prescribes an open process of nomination that allows all organized groups in the county to nominate candidates which are selected by the governor. Were non-state members selected by way of nomination?

Did organized groups in the county put forward nominations and did you participate in this process? Why or why not?

There have been questions regarding representativeness of the CBEFs. Is there a non-state CBEF representative for each group listed in the PFM Act?

Does the composition of CBEF reflect the minimum requirements of the law? Are organized groups satisfied with the representatives selected?

Membership Skills

What is your highest level of qualification?

Have there been any capacity building opportunities provided to members in order to participate effectively in CBEF? If so, what capacity has been provided and by whom?

CBEFs are meant to facilitate public participation for budget estimates, County Fiscal Strategy Paper, County Budget Review Paper and county plans such as annual development plans. Has CBEFs facilitated participation in these? Have these participation meetings been well advertised and attended?

Quality of meetings

Have you attended any CBEF consultation meetings? Why/why not? If yes, what is your impression of them? Please describe your experience.

Regarding CBEF meetings, how satisfied are you with the following

- How meetings are communicated
- How meetings are organised and managed
- Availability of relevant documentation
- The information presented in the meeting
- How the issues are discussed/deliberated
- Opportunities provided for you to participate in the meeting
- Frequency of meetings
- Feedback/updates post meetings

How easy/difficult would you say it was for you participate in the CBEF? Please provide a reason for your answer.

Access to policy documents and information

Have you ever read a copy of the following documents produced by the Nairobi County government? (tick all that apply)

	Yes	No
County Integrated Development Plan/ Annual Development Plan		
County Budget Review Outlook Paper		
County Budget Estimates		
County Fiscal Bill		
Draft County Public Participation Bill		
Annual Report		
Auditor-General's Report		

Do you know where to find any of these documents?

If you have never read a copy of these documents, why?

When there are problems with public services affecting those you represent, how much do you think your participation in this forum can do to improve the situation?

Do you consult and provide feedback with your constituency before and/or after CBEF meetings? Please provide a reason for your answer.

Does the Nairobi County government provide documents prior to or at public meetings? Do CBEFs provide feedback to citizens regarding how their input was collected and utilized?

Interview Schedule 5: The Kenyan Commission of Revenue Authority, CRA

Please introduce yourself and tell us briefly about the work and role of the CRA specifically in relation to devolution and public participation.

On devolution and public participation reform

What do you think were the main reasons why Kenya's 2010 Constitution introduced a new structure of government that put citizen participation at the core?

Why is devolution considered essential to effective public participation?

What would you say are the main changes/major differences between public participation in local budgets and plans pre and post devolution?

Kenya's ambitious devolution process has ushered in 47 Counties. What are some of the challenges facing newly devolved Counties when it comes to implementing the new public participation regulations? Specifically the challenges Counties are experiencing which they did not anticipate in the planning and devolution reform process?

In addition to the CGA and PFM Act, county governments are introducing county specific public participation laws. To what extent are these participation laws contributing to the existing participation framework?

In your opinion are there differences in how urban and rural county governments implement public participation and what accounts for these differences?

On CBEFs

You recently established CBEF guidelines after embarking on a national tour with other CSO's to build capacities of CBEFs. Please tell me about your findings.

Based on CRA assessment/research into CBEFs, to what extent have Counties established functioning CBEFs and in your opinion why has there been a struggle to establish these?

Non-state members of CBEFs are meant to represent organized interest groups in the county, such as women, business, professionals, labour, and persons with disability. The County Government Act prescribes an open process of nomination that allows all organized groups in the county to nominate candidates which are selected by the governor. How representative are these various interest groups and those nominated to represent them?

Are there guidelines/mechanisms have been put in place on how non-state CBEF members should facilitate input via CBEFs and provide guidelines on funding CBEFs?

What support and capacity is currently being provided to CBEF members?

Have you attended any CBEF meetings, if yes what is your impression of them? Please describe your experience?

What is the difference between CBEF meetings and general participation meetings at the ward level? Why do you think there was a need to introduce a new body such as the CBEF?

Are members of the CBEF compensated for their services, if so are there any conditions attached to their compensation.

Thank you for your time!

Annexure F: A summary of vision, mission and goals of interviewed Residents

Associations

Residents Association	Location demographics	Vision/ Mission	Goals
Dandora Transformation League (DTL)	<i>Dandora</i> a very poor suburb to the East of Nairobi located in Embakasi Central Sub County. The Association consists of low income and poor households	To create a clean, green and safe Dandora with employment for the youth	<ul style="list-style-type: none"> • Safety and Security • Environmental management • Economic and youth development
Karen Langata District Association (KLDA)	<i>Karen</i> is an upper-class suburb located in the south-east of Nairobi in Langata Sub County. The Sub County contains Kenya's largest slum – Kibera plus the most affluent suburb in Nairobi- Karen. The Association represents upper class households residing in Karen.	To represent the interests of Karen/ Langata and ensure that the area is a well-serviced, safe, peaceful and environmentally friendly place to live.	<ul style="list-style-type: none"> • Safety and Security • Conservation and Environmental management • Governance and Advocacy • Planned Urban Development
Kenyan Alliance for Residents Association (KARA)	Located in all 17 of Nairobi's 17 Sub Counties and nationally. It is an umbrella body that consists of various Residents Associations representing all income groups.	A society where all are empowered to attain a living space that permits a life of dignity. To inculcate partnerships and promote good governance, transparency, accountability and ethical practice in public service delivery for all.	<ul style="list-style-type: none"> • Governance and Advocacy • Civic Education and capacity building • Environmental Management, • Safety and Security
Kilimani Project Foundation	Kilimani is a suburb located in Dagoretti North located at the west of Nairobi County. It is a mostly middle class area for civil servants working in nearby hospitals schools and government institutions. The suburb also has a thriving business centre. The Association represents mostly middle and upper class households. It also includes corporate membership for businesses in the area.	Representing the interests of Kilimani residents and businesses and preserving the community of Kilimani	<ul style="list-style-type: none"> • Security • Planned Urban and Business Development • Environmental Management • Governance and Advocacy
Old Race Course Estates (ORCE) Residents Group	Located in a suburb called <i>Eastleigh</i> which is in the central part of the County and in Starehe Sub County. The Sub County is home to several informal settlements and middle class homes. It is also	Bringing together the owners, residents and friends of Old Racecourse Estate in a bid to restore the Estate's former glory.	<ul style="list-style-type: none"> • Safety and Security • Governance and Advocacy • Planned Urban Development

	home to various large and small-scale businesses government offices. The association represents middle class households in the area.		
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